ARKANSAS CODE OF 1987 ANNOTATED

2021 SUPPLEMENT VOLUME 28B

Place in pocket of bound volume

Prepared by the Editorial Staff of the Publisher

Under the Direction and Supervision of the
ARKANSAS CODE REVISION COMMISSION
Speaker Matthew J. Shepherd, *Chair*
Representative Jimmy Gazaway
Senator Bob Ballinger
Senator Clarke Tucker
Honorable Camille W. Bennett
Honorable Vaughan Hankins
Honorable Robert F. Thompson III
Honorable Margaret Sova McCabe, *Dean, University of Arkansas at Fayetteville School of Law*
Honorable Theresa Beiner, *Dean, University of Arkansas at Little Rock William H. Bowen School of Law*
Honorable Cory Cox, *Legislative Director, Office of the Attorney General*
Honorable Matthew B. Miller, *Assistant Director for Legal Services of the Bureau of Legislative Research*

LexisNexis®

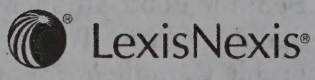
COPYRIGHT © 2011, 2013, 2015, 2017, 2019, 2021
BY
THE STATE OF ARKANSAS

All Rights Reserved

LexisNexis and the Knowledge Burst logo are registered trademarks, and Michie is a trademark of Reed Elsevier Properties Inc. used under license. Matthew Bender is a registered trademark of Matthew Bender Properties Inc.

For information about this Supplement, see the Supplement pamphlet for Volume 1A

ISBN 978-0-327-10031-7 (Code set)
ISBN 978-1-4224-6369-7 (Volume 28B)



Matthew Bender & Company, Inc.
9443 Springboro Pike, Miamisburg, OH 45342
www.lexisnexis.com

(Pub.40604)

TITLE 27

TRANSPORTATION

(CHAPTERS 1-48 IN VOLUME 28A)

SUBTITLE 4. MOTOR VEHICULAR TRAFFIC

CHAPTER.

49. GENERAL PROVISIONS.
50. PENALTIES AND ENFORCEMENT.
51. OPERATION OF VEHICLES — RULES OF THE ROAD.
52. TRAFFIC-CONTROL DEVICES.
53. ACCIDENTS.

SUBTITLE 5. HIGHWAYS, ROADS, AND STREETS

CHAPTER.

64. GENERAL PROVISIONS.
65. ARKANSAS DEPARTMENT OF TRANSPORTATION — STATE HIGHWAY COMMISSION.
66. ESTABLISHMENT AND MAINTENANCE GENERALLY.
67. STATE HIGHWAY SYSTEM.
69. MISSISSIPPI RIVER PARKWAY (GREAT RIVER ROAD).
70. HIGHWAY REVENUE DISTRIBUTION.
72. HIGHWAY REVENUES FOR LOCAL AID.
74. HIGHWAY BEAUTIFICATION.
76. REGIONAL MOBILITY AUTHORITY ACT.

SUBTITLE 6. BRIDGES AND FERRIES

CHAPTER.

85. GENERAL PROVISIONS.
86. BRIDGES.
87. FERRIES.
88. BONDS FOR CONSTRUCTION AND OPERATION.
89. INTERSTATE COMPACTS.
90. TOLL HIGHWAYS.

SUBTITLE 7. WATERCOURSES AND NAVIGATION

CHAPTER.

101. WATERCRAFT.

SUBTITLE 8. AERONAUTICS

CHAPTER.

114. GENERAL PROVISIONS.
115. DIVISION OF AERONAUTICS.
116. REGULATION OF AIRCRAFT.

SUBTITLE 4. MOTOR VEHICULAR TRAFFIC

CHAPTER 49

GENERAL PROVISIONS

SUBCHAPTER.

1. Title, Applicability, and Construction Generally.
2. Definitions. [Repealed.]

Subchapter 1 — Title, Applicability, and Construction Generally

SECTION.
27-49-109. Drivers of authorized emergency vehicles.
27-49-111. Use of animals.
SECTION.
27-49-113. Funeral processions — Right-of-way — Definitions.
27-49-114. Definitions.

27-49-107. Obedience to police officers required.

CASE NOTES

Officer's Authority.

Trial court believed an officer's testimony that the encounter was no more than the officer trying to direct traffic and appellant's vehicle on a congested and dark street amidst a crime scene where officers' safety was at issue, and while protecting the officers was a specific explanation for knocking on appellant's window, the odor of intoxicants and his appearance gave the required suspicion for an investigation into a potential driving while intoxicated offense; under Ark. R. Crim. P. 3.1 the officer then had a duty to investigate further because it is unlawful for any person who is intoxicated to operate or be in actual physical contract of a motor vehicle. Ward v. State, 2012 Ark. App. 649 (2012).

Even if the stop started when the officer knocked on appellant's window, the officer had reasonable suspicion that appellant was endangering other officers on the street, and the officer had authority to require appellant to stop; when the odor of alcohol became apparent, the officer had reasonable suspicion to ask appellant to get out of the vehicle, and as there was probable cause to arrest him for driving while intoxicated, the trial court did not err in denying appellant's motion to suppress. Ward v. State, 2012 Ark. App. 649 (2012).

27-49-109. Drivers of authorized emergency vehicles.

(a)(1) The driver of any authorized emergency vehicle when responding to an emergency call upon approaching a red or stop signal or any stop sign shall slow down as necessary for safety but may proceed cautiously past the red or stop sign or signal.

(2) At other times, drivers of authorized emergency vehicles shall stop in obedience to a stop sign or signal.

(b) A driver of any authorized emergency vehicle shall not assume any special privilege under this act except when:

(1) The authorized emergency vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law; and

(2) The driver of the authorized emergency vehicle is operating the vehicle's emergency lights and operating an audible warning device.

(c) The driver of an authorized emergency vehicle operated as a police vehicle is not required to operate a siren or flashing lights when operating the emergency vehicle as authorized under § 27-51-906.

History. Acts 1937, No. 300, § 23; Pope's Dig., § 6681; A.S.A. 1947, § 75-423; Acts 2017, No. 793, § 2.

Amendments. The 2017 amendment redesignated (a) as (a)(1) and (a)(2); redesignated former (b) as the introductory language of (b) and (b)(1); added (b)(2) and (c); and made stylistic changes.

27-49-111. Use of animals.

A person riding an animal or driving any animal drawing a vehicle upon a highway has the rights and duties applicable to a driver of a vehicle.

History. Acts 1937, No. 300, § 24; Pope's Dig., § 6682; Acts 1981, No. 699, § 1; A.S.A. 1947, § 75-424; Acts 2017, No. 956, § 2; 2019, No. 650, § 2.

Amendments. The 2017 amendment inserted "electric bicycles" in the section heading and inserted "electric bicycle" in the section.

The 2019 amendment deleted "bicycles, electric bicycles, or" preceding "animals" in the section heading; and rewrote the section.

CASE NOTES

No Duty.

In a personal injury case, a trial court did not err by denying a driver's proffered jury instruction regarding a bicyclist's duty to signal prior to turning because § 27-51-403 did not apply to bicycles; therefore, the bicyclist did not have a duty to signal continuously for 100 feet. Sanson v. Allinson, 2014 Ark. App. 619, 447 S.W.3d 151 (2014) (decided prior to 2019 amendment which removed bicyclist).

27-49-113. Funeral processions — Right-of-way — Definitions.

(a) As used in this section:

(1) "Funeral escort vehicle" means a motor vehicle that leads or facilitates the movement of a funeral procession and is equipped as required by § 27-36-306(a)(1), including without limitation:

(A) A hearse;

(B) A motor vehicle owned by a funeral home or private funeral escort company; or

(C) A motorcycle owned by a funeral home or private funeral escort company;

(2) "Funeral procession" means a funeral escort vehicle and one (1) or more motor vehicles accompanying the body or cremated remains of a deceased person from a funeral home, church, or other location to the burial site or cemetery;

(3) "Immediate hazard" means any motor vehicle approaching so near or so quickly that a reasonably careful person would realize that there is a danger of collision or accident; and

(4) "Motor vehicle" means a vehicle that is self-propelled and used to transport a person or property upon a street or highway, including without limitation a motorcycle.

(b) Except as provided in subsection (c) of this section, a funeral procession may proceed through an intersection without stopping after a funeral escort vehicle has proceeded into the intersection in compliance with any official traffic control device governing the traffic in the intersection.

(c)(1) A funeral procession has the right-of-way at an intersection as described under subsection (b) of this section, except that a funeral escort vehicle or a motor vehicle that is a part of a funeral procession shall yield the right-of-way:

(A) To an authorized emergency vehicle if the authorized emergency vehicle is displaying its rotating or flashing emergency lights;

(B) When directed to yield or stop by a law enforcement officer;

(C) To an approaching railroad train; or

(D) To oncoming traffic that constitutes an immediate hazard.

(2) If a motor vehicle that is a part of a funeral procession becomes separated from the funeral procession so that the funeral procession is no longer continuous, the driver of the motor vehicle shall:

(A) Proceed to his or her destination; and

(B) Obey all official traffic control devices and general rules of the road.

(d) A motor vehicle that is a part of a funeral procession shall:

(1) Display its lighted:

(A) Headlamps;

(B) Tail lamps; and

(C) Flashing lights as provided in § 27-36-208(c); and

(2) Follow the preceding motor vehicle in the funeral procession as closely as is reasonable and prudent to keep the motor vehicles in the funeral procession together.

History. Acts 2017, No. 816, § 3; 2019, No. 394, § 7.

A.C.R.C. Notes. The provisions of former § 27-49-219 relating to authorized emergency vehicles were transferred to present § 27-51-905 by Acts 2017, No. 448, § 39.

Amendments. The 2019 amendment deleted "as defined in § 27-49-219 [repealed]" following the first occurrence of "authorized emergency vehicle" in (c)(1)(A).

27-49-114. Definitions.

As used in this subchapter:

(1) "Business district" means the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage along the highway for a distance of three hundred feet (300') or more is occupied by buildings in use for business;

(2) "Crosswalk" means:

(A) That portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections; and

(B) Any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface;

(3) "Driver" means a person who drives or is in actual physical control of a vehicle;

(4) "Explosives" means a chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb;

(5) "Flammable liquid" means a liquid which has a flash point of seventy degrees Fahrenheit (70° F) or less as determined by a Tagliabue closed-cup test device or its equivalent;

(6) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or if none, then the lateral boundary lines of the roadways of two (2) highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict;

(7) "Local authorities" means a county, municipal, or other local board or body having authority to adopt local police regulations under the Arkansas Constitution and the laws of this state;

(8) "Motor vehicle" means a vehicle that is self-propelled or that is propelled by electric power drawn from overhead trolley wires but not operated upon stationary rails or tracks;

(9)(A) "Motorcycle" means a motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground.

(B) "Motorcycle" includes an autocycle as defined in § 27-20-303.

(C) "Motorcycle" does not include a tractor;

(10) "Official traffic control devices" means all signs, signals, markings, and devices not inconsistent with this subtitle placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic;

(11) "Official traffic control signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed;

(12)(A) "Owner" means a person who holds the legal title of a vehicle.

(B) In the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this subchapter;

(13) "Pedestrian" means a person afoot;

(14) "Person" means a natural person, firm, copartnership, association, or corporation;

(15) "Pneumatic tire" means a tire in which compressed air is designed to support the load;

(16) "Police officer" means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations or rules;

(17) "Private road or driveway" means a way or place in private ownership and used for vehicular travel by the owner and by those having express or implied permission from the owner;

(18) "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails;

(19) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train;

(20) "Railroad train" means a steam engine, electric, or other motor, with or without cars coupled thereto, operated upon rails, except streetcars;

(21) "Residence district" means the territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred feet (300') or more is substantially improved with residences or residences and buildings in use for business;

(22) "Right-of-way" means the privilege of the immediate use of the highway;

(23) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel;

(24) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone;

(25)(A) "School bus" means a motor vehicle designed to carry more than ten (10) passengers that is:

(i) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school or school-sponsored activities; or

(ii) Privately owned and operated for compensation for the transportation of students to or from school or school-sponsored activities.

(B) "School bus" does not mean a motor vehicle designed to carry more than twenty-five (25) passengers if the motor vehicle is:

(i) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school-sponsored activities but not used to transport students on any scheduled school bus route; or

(ii) Privately owned and operated for compensation under contract to a school district and used for the transportation of students to or from school-sponsored activities;

(26) "Semitrailer" means a vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle;

(27) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians;

(28) "Street" or "highway" means the entire width between boundary lines of a roadway publicly maintained when any part of the roadway is open to the use of the public for purposes of vehicular travel;

(29) "Streetcar" means a car other than a railroad train for transporting persons or property and operated upon rails principally within a municipality;

(30) "Through highway" means a highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing and when stop signs are erected as provided in this subtitle;

(31) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances, either singly or together, while using any highway for purposes of travel;

(32) "Trailer" means a vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle; and

(33) "Vehicle" means a device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

History. Acts 1937, No. 300, §§ 1-19; Pope's Dig., §§ 6659-6677; Acts 1959, No. 307, §§ 4, 6, 7; A.S.A. 1947, §§ 75-401–75-419; Acts 1995, No. 123, § 2; 2007, No. 999, § 5; 2011, No. 780, §§ 1-3; 2017, No. 448, § 37; 2017, No. 689, § 6; 2019, No. 315, § 3145.

Publisher's Notes. The definitions in this section were formerly codified as § 27-49-201 et seq.

Amendments. The 2017 amendment by Act 689 rewrote the definition of "motorcycle".

The 2019 amendment added "or rules" in (16).

CASE NOTES

Bicycle.

In a personal injury case, a trial court did not err by denying a driver's proffered jury instruction regarding a bicyclist's duty to signal prior to turning because § 27-51-403 did not apply to bicycles; therefore, the bicyclist did not have a duty to signal continuously for 100 feet. Sanson v. Allinson, 2014 Ark. App. 619, 447 S.W.3d 151 (2014).

Subchapter 2 — Definitions

SECTION.
27-49-201 — 27-49-219. [Repealed.]

27-49-201 — 27-49-219. [Repealed.]

Publisher's Notes. This subchapter, concerning definitions, was repealed by Acts 2017, No. 448, § 38.

For current law, see §§ 27-49-114, 27-51-905.

CHAPTER 50

PENALTIES AND ENFORCEMENT

SUBCHAPTER.
2. Enforcement Generally.
3. Offenses and Penalties Generally.
4. Additional Penalty.
5. Traffic Citations.
6. Arrest and Release.
8. Convictions.
9. Central Driver's Records File.
11. Abandoned Vehicles.
12. Removal or Immobilization of Unattended or Abandoned Vehicles.

Subchapter 2 — Enforcement Generally

SECTION.
27-50-201. Provisions deemed cumulative.
27-50-202. Arkansas Highway Police Division of the Arkansas Department of Transportation — Creation.
27-50-203. Appointment of chief.
27-50-204. Division employees.
27-50-205. Power and authority of division.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

27-50-201. Provisions deemed cumulative.

This subchapter shall be cumulative to the laws in force relating to the functions and duties imposed upon the Department of Arkansas State Police and its successor entities under the provisions of Acts 1953, No. 122, and acts amendatory thereto. It shall also be cumulative to laws in effect that were in effect prior to the enactment of Acts 1953, No. 122, which imposed duties upon the Arkansas Department of Transportation and the Director of the Department of Finance and Administration, as well as their successor entities and officials, which were transferred to the Department of Arkansas State Police under the provisions of Acts 1953, No. 122, as amended.

History. Acts 1963, No. 125, § 2; A.S.A. 1947, § 75-1022.7; Acts 2017, No. 707, § 339; 2019, No. 910, § 4808.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" and made a stylistic change.

The 2019 amendment inserted "and its successor entities" in the first sentence and inserted "as well as their successor entities and officials" in the second sentence.

27-50-202. Arkansas Highway Police Division of the Arkansas Department of Transportation — Creation.

The Arkansas Highway Police Division of the Arkansas Department of Transportation is created.

History. Acts 1963, No. 125, § 1; 1979, No. 720, § 1; A.S.A. 1947, §§ 75-1022.6, 75-1022.10; Acts 2007, No. 827, § 237; 2017, No. 707, § 340.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in the section heading and the section.

27-50-203. Appointment of chief.

The Director of State Highways and Transportation shall appoint a Chief of the Arkansas Highway Police Division of the Arkansas Department of Transportation who shall serve at the pleasure of the director.

History. Acts 1963, No. 125, § 4; A.S.A. 1947, § 75-1022.9; Acts 2017, No. 446, § 1; 2017, No. 707, § 341.

Amendments. The 2017 amendment by No. 446 substituted "chief" for "director" in the section heading; and substituted "The Director of State Highways and Transportation" for "The State Highway Commission", "a Chief" for "a Director", and "director" for "commission."

The 2017 amendment by No. 707 substituted "Department of Transportation" for "State Highway and Transportation Department".

27-50-204. Division employees.

(a) The State Highway Commission shall establish rules governing employees of the Arkansas Highway Police Division of the Arkansas Department of Transportation.

(b) Employees of the division may be required to wear some type of regalia or uniform identifying the employees as members of the division.

(c) All moneys coming into the hands of the employees in the enforcement of revenue laws shall be subject to rules and procedures as the Secretary of the Department of Finance and Administration shall direct.

History. Acts 1963, No. 125, § 4; A.S.A. 1947, § 75-1022.9; Acts 2017, No. 448, § 40; 2017, No. 707, § 342; 2019, No. 315, §§ 3146, 3147; 2019, No. 910, § 4809.

Amendments. The 2017 amendment by No. 448 repealed (a)(2).

The 2017 amendment by No. 707 substituted "Department of Transportation" for "State Highway and Transportation Department" in (a).

The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (a); and substituted "rules" for "regulations" in (c).

The 2019 amendment by No. 910 substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (c).

27-50-205. Power and authority of division.

(a) The Arkansas Highway Police Division of the Arkansas Department of Transportation shall have the power and authority to enforce all laws pertaining to the unlawful operation of motor vehicles over the highways of this state.

(b) This responsibility shall include, but not be limited to, a full responsibility along with the Division of Arkansas State Police and the Arkansas Department of Transportation for enforcement of the Hazardous Materials Transportation Act of 1977, § 27-2-101 et seq., and the rules promulgated thereunder.

History. Acts 1979, No. 720, § 2; A.S.A. 1947, § 75-1022.11; Acts 2017, No. 446, § 2; 2017, No. 448, § 41, 2017, No. 707, § 343.

Amendments. The 2017 amendment by No. 446 substituted "Arkansas Department of Transportation" for "Arkansas Transportation Commission" in (b).

The 2017 amendment by No. 448, in (b), substituted "Arkansas Department of Transportation" for "Arkansas Transportation Commission [abolished]" and deleted "and regulations" following "rules".

The 2017 amendment by No. 707 substituted "Department of Transportation" for "State Highway and Transportation Department" in (a).

Subchapter 3 — Offenses and Penalties Generally

SECTION.
27-50-302. Classification of traffic violations.
27-50-303. Violations involving drivers' licenses.
27-50-306. Additional penalties on conviction of moving traffic violations.
27-50-307. Negligent homicide.
27-50-309. Racing or observing a drag race as a spectator on a public highway — Definitions.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

27-50-302. Classification of traffic violations.

(a) The following traffic law violations shall be known as offenses and classified as indicated:

(1) Except as provided in § 27-50-309(b)(2), the first offense of racing on a public highway — Class A misdemeanor;

(2) Reckless driving — Class B misdemeanor;

(3) Driving with lights off to avoid detection, identification, or apprehension — Class B misdemeanor;

(4) Hazardous driving — Class C misdemeanor;

(5) Leaving the scene of an accident involving property damage only — Class C misdemeanor;

(6) Driving the wrong way on a one-way street — Class C misdemeanor;

(7) Speeding in excess of fifteen miles per hour (15 m.p.h.) over the posted speed limit — Class C misdemeanor;

(8) Using nitrous oxide in a motor vehicle or motorcycle on a street or highway as prohibited under § 27-37-803 — Class C misdemeanor; and

(9) Observing a drag race as a spectator on a public highway — Class B misdemeanor.

(b) More than three (3) violations in a twelve-month period — Class C misdemeanor.

History. Acts 1977, No. 417, § 3; 1981, No. 918, § 2; 1983, No. 549, § 18; 1985, No. 1078, § 2; A.S.A. 1947, § 75-1055; Acts 2005, No. 1568, § 2; 2009, No. 826, § 1; 2021, No. 1061, § 1.

Amendments. The 2021 amendment substituted "Except as provided in § 27-50-309(b)(2), the first offense of racing" for "Racing" in (a)(1).

CASE NOTES

Evidence.

Defendant's conviction for speeding in excess of 15 miles per hour over the speed limit, in violation of subdivision (a)(7) of this section, was overturned due to insufficient evidence because while the radar gun measured defendant's speed at 51 mph in a 35 mph zone, the evidence showed that even a properly calibrated radar gun could measure speed only within plus or minus one mph. Kiesling Daugherty v. State, 2012 Ark. App. 512 (2012).

27-50-303. Violations involving drivers' licenses.

The following nonmoving traffic law violations shall be classified as follows:

(1) Possession of a counterfeit driver's license or a deliberately altered driver's license — Class A misdemeanor; and

(2) Making a false statement to the Secretary of the Department of Finance and Administration to obtain a driver's license — Class A misdemeanor as defined under § 5-53-103 of the Arkansas Criminal Code.

History. Acts 1977, No. 417, §§ 2, 4; A.S.A. 1947, §§ 75-1054, 75-1056; 2019, No. 910, § 4810

Amendments. The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (2).

27-50-306. Additional penalties on conviction of moving traffic violations.

(a) In addition to the penalties provided by law, after the conviction of any person for any moving traffic violation, the sentencing court may in disposition and assessing penalty consider the previous traffic conviction record and impose the following penalties, or combination of penalties:

(1) Suspend the driver's license for any period not to exceed one (1) year;

(2) Suspend the driver's license for any period, not to exceed one (1) year, but grant a conditional permit to drive during the suspension, by imposing conditions and restrictions not to exceed one (1) year defining circumstances under which the violator will be allowed to drive while under suspension;

(3) Require the attendance of the violator at a driver's training school;

(4) Require the violator to retake the driver's test, or furnish proof of adequate sight or hearing necessary for driving, or produce proof of physical or mental capacity and ability to drive;

(5) Require minors to write themes or essays on safe driving; or

(6) Place a minor under probationary conditions, as determined by the court in its reasonable discretion, designed as a reasonable and suitable preventative and educational safeguard to prevent future traffic violations by the minor.

(b)(1) Unless the offense is otherwise addressed under § 5-4-703, in addition to any other sentence, the sentencing court shall assess an additional fine of five dollars ($5.00) for reckless driving, § 27-50-308, or for speeding in excess of twenty miles per hour (20 m.p.h.) over the posted speed limit if the finder of fact determines that the traffic violation was committed while a person under eighteen (18) years of age was a passenger in the motor vehicle.

(2) A fine assessed and collected under this subsection shall be remitted on or before the fifteenth day of the following month to the Arkansas Children's Advocacy Center Fund.

History. Acts 1961, No. 143, § 1; A.S.A. 1947, § 75-1038a; Acts 2017, No. 714, § 6.

Amendments. The 2017 amendment added the (a) designation and added (b); substituted "sentencing court" for "trial judge or magistrate" in the introductory language of (a); and made stylistic changes.

27-50-307. Negligent homicide.

(a) When the death of any person ensues within one (1) year as a proximate result of injury received by the driving of any vehicle in reckless or wanton disregard of the safety of others, the person operating the vehicle shall be guilty of negligent homicide.

(b) The Secretary of the Department of Finance and Administration shall revoke the operator's or chauffeur's license of any person convicted of negligent homicide under the provisions of this section.

(c) The offense of negligent homicide shall be included in and be a lesser degree of the offense of involuntary manslaughter.

History. Acts 1937, No. 300, § 48; Pope's Dig., § 6706; Acts 1955, No. 174, § 1; A.S.A. 1947, § 75-1001; Acts 2017, No. 448, § 42; 2019, No. 910, § 4811.

Amendments. The 2017 amendment substituted "Director of the Department of Finance and Administration" for "commissioner" in (b).

The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (b).

27-50-309. Racing or observing a drag race as a spectator on a public highway — Definitions.

(a) As used in this section:

(1) "Drag race" means:

(A) The operation of two (2) or more motor vehicles from a point side-by-side at accelerating speeds in a competitive attempt to outdistance each other; and

(B) The operation of one (1) or more motor vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of the motor vehicle or motor vehicles within a certain distance or time limit;

(2) "Public highway" means a public road, county road, city street, or any paved or unpaved roadway that is owned or maintained by a public entity or municipality; and

(3) "Race" means the operation or use of one (1) or more motor vehicles traveling with excessive or at dangerous speeds in an attempt to:

(A) Outgain or outdistance another motor vehicle or motor vehicles;

(B) Arrive at a given destination ahead of another motor vehicle or motor vehicles; or

(C) Test the physical stamina or endurance of drivers over long-distance driving routes.

(b)(1) A person commits the crime of racing on a public highway if he or she knowingly:

(A) Commits a violation of § 27-50-302(a)(1)-(9) and operates a motor vehicle in a race or drag race on a public highway; or

(B) Participates in, promotes, solicits, or collects moneys at any location for any race or drag race on a public highway.

(2)(A) A first offense of the crime of racing on a public highway is a Class A misdemeanor.

(B) A subsequent offense of the crime of racing on a public highway, committed within five (5) years of a prior offense:

(i) Is a Class A misdemeanor; and

(ii) Shall result upon conviction in the suspension of the person's driver's license for a period of six (6) months.

(c)(1) A person commits the crime of felony racing on a public highway if he or she violates subdivision (b)(1) of this section and:

(A) Commission of the violation serves to impede or stop the flow of traffic traveling on the public highway in the same or opposite direction; or

(B) Is part of a gathering of ten (10) or more individuals engaging in the same or similar behavior.

(2) Felony racing on a public highway is a Class D felony.

(d)(1) A person commits the crime of observing a drag race as a spectator on a public highway if he or she with the purpose to observe a drag race on a public highway:

(A) Is knowingly present at and purposely observes the drag race or the preparation for the drag race; and

(B) Purposely demonstrates through active encouragement, assistance, facilitation, urging, or a request that the drag race commence.

(2) Observing a drag race is a Class B misdemeanor.

History. Acts 1911, No. 134, § 11, p. 94; C. & M. Dig., § 7427; Pope's Dig., § 6639; Acts 1965, No. 100, § 1; A.S.A. 1947, § 75-603; Acts 2005, No. 1568, § 3; 2009, No. 826, § 2; 2021, No. 1061, § 2.

Amendments. The 2021 amendment deleted (b)(1)(C); rewrote (b)(2); inserted (c), and redesignated former (c) as (d).

RESEARCH REFERENCES

ALR. Criminal Liability for Street Racing (Drag Racing). 89 A.L.R.6th 565.

Subchapter 4 — Additional Penalty

SECTION.

27-50-402 — 27-50-407. [Repealed.]
27-50-408. Fines for moving traffic violations in a highway work zone — Definitions.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

27-50-402 — 27-50-407. [Repealed.]

Publisher's Notes. These sections, concerning mandatory penalty, applicable only to certain cities, disposition of funds, penalties to be remitted monthly, failure to collect and remit, and annual audit, were repealed by Acts 2019, No. 394, § 8, effective July 24, 2019. The sections were derived from the following sources:

27-50-402. Acts 1963, No. 257, § 2; A.S.A. 1947, § 75-1040.

27-50-403. Acts 1963, No. 257, § 2; A.S.A. 1947, § 75-1040; Acts 1989, No. 935, § 1.

27-50-404. Acts 1963, No. 257, § 3; A.S.A. 1947, § 75-1041; Acts 1989, No. 935, § 2.

27-50-405. Acts 1963, No. 257, § 4; A.S.A. 1947, § 75-1042; Acts 1989, No. 935, § 3.

27-50-406. Acts 1963, No. 257, § 5; A.S.A. 1947, § 75-1043; Acts 1989, No. 935, § 4.

27-50-407. Acts 1963, No. 257, § 5; A.S.A. 1947, § 75-1043; Acts 2019, No. 910, § 4812.

Section 27-50-407 was also amended by Acts 2019, No. 910, § 4812, which would have substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" but was superseded by the provisions of Acts 2019, No. 394, § 8.

27-50-408. Fines for moving traffic violations in a highway work zone — Definitions.

(a) As used in this section, unless the context otherwise requires:

(1) "Construction personnel" means employees of the Arkansas Department of Transportation or the counties or the municipalities of this state or any contractors of the State Highway Commission or the counties or municipalities;

(2) "Conviction" means a formal declaration that a person is guilty of a violation of law determined when a person charged with a violation of

law pleads guilty or nolo contendere, is found guilty, or forfeits a bond in lieu of a plea or trial; and

(3) "Highway work zone" means any area upon or adjacent to any highway, road, or street of this state where construction, reconstruction, maintenance, or any other type of work is being performed or is in progress by employees of the department, the counties or the municipalities of this state, or any contractors of the State Highway Commission or the counties or municipalities.

(b)(1)(A)(i) In addition to the fine otherwise provided by law, after the conviction of any person for any moving traffic violation committed while the person is driving through a highway work zone in this state and if construction personnel were present in the highway work zone when the offense occurred, the trial judge shall assess an additional fine equivalent to the fine imposed by law upon that person for committing a moving traffic violation in the highway work zone.

(ii) Equivalent additional court costs pursuant to § 16-10-305 shall not be assessed.

(B) Any bond posted pursuant to a charge of committing any moving traffic violation while in a highway work zone in this state shall include the additional equivalent fine in the amount of the bond otherwise required.

(2)(A) All fines collected by the county or city official, agency, or department designated pursuant to § 16-13-709 as primarily responsible for the collection of fines assessed in the circuit courts, district courts, or city courts of this state as a result of this section shall be paid by the collecting official to the county treasurer or town or city treasurer pursuant to law.

(B) All such amounts collected in circuit court shall be remitted to the county treasurer.

(C) All amounts collected pursuant to subdivision (b)(2)(A) of this section in district court shall be paid to the county or city treasurer pursuant to § 16-17-707.

(D) All amounts collected pursuant to subdivision (b)(2)(A) of this section in city court shall be paid to the treasurer of the town or city in which the city court is located.

(E) Amounts received by the county treasurer may be used for general county purposes, and amounts received by the city treasurer may be used for general city purposes.

(c)(1) The additional fines and penalties shall not be assessed unless signs, either permanent or temporary, were present at the time of the violation in advance of the highway work zone warning the traveling public that fines are double in highway work zones.

(2) The signs shall be located no greater than one (1) mile nor less than one thousand five hundred feet (1,500') in advance of the highway work zone.

(3) Furthermore, the additional fines or penalties for speeding shall not be assessed unless signs, either permanent or temporary, are posted in advance of the highway work zone indicating the maximum speed limit to be obeyed while traveling through the highway work zone.

(4)(A) All signs authorized by this section shall conform with the Manual on Uniform Traffic Control Devices.

(B) The counties and municipalities, prior to utilizing any such signs, shall seek the advice of the department in order that the signs shall be uniform throughout the state.

(C) The department is authorized to develop guidelines for the counties and municipalities to achieve uniformity.

(d) Nothing contained in this section shall be construed to abrogate any of the provisions of § 12-8-106 regarding the powers of the Division of Arkansas State Police.

(e) For purposes of this section, "moving traffic violation" shall include, but not be limited to:

(1) Careless or prohibited driving;
(2) Driving while intoxicated;
(3) Underage driving under the influence;
(4) Refusal to submit;
(5) Leaving the scene of an accident;
(6) Driving with lights off;
(7) Driving on an expired, suspended, or revoked license;
(8) Improper use of lighting equipment;
(9) Failure to obey traffic control devices and signs;
(10) Failure to operate a vehicle in accordance with the rules of the road;
(11) Failure to stop and render aid;
(12) Following too closely;
(13) Driving the wrong way on a one-way street;
(14) Hazardous driving;
(15) Impeding the flow of traffic;
(16) Improper backing;
(17) Improper lane change;
(18) Improper entrance or exit to avoid an intersection;
(19) Improper towing;
(20) Improper turning;
(21) Passing a stopped school bus;
(22) Racing on the highway;
(23) Reckless driving; and
(24) Exceeding the speed limit.

History. Acts 1995, No. 893, §§ 1-4; 2001, No. 1120, § 1; 2005, No. 1934, § 24; 2017, No. 707, § 344.

Amendments. The 2017 amendment deleted former (a)(3) and redesignated former (a)(4) as (a)(3); substituted "Department of Transportation" for "State Highway and Transportation Department" in (a)(1) and (a)(3); and rewrote (a)(2).

Subchapter 5 — Traffic Citations

SECTION.
27-50-505. Information from owner regarding operation of motor vehicle ticketed for violation — Definition.

27-50-505. Information from owner regarding operation of motor vehicle ticketed for violation — Definition.

(a) As used in this section, unless the context otherwise requires, "police authority" means any municipal, county, or state police enforcement agency.

(b) When the registered owner of a motor vehicle receives notice from any police authority that the motor vehicle has been ticketed for a violation of any state law or municipal ordinance regulating motor vehicle operation or usage, the registered owner shall provide the notifying police authority with such information as he or she has available regarding the operation of the vehicle at the time it was ticketed, within fourteen (14) days of receipt of notice therefor.

(c) Failure or refusal of any registered owner of a motor vehicle to comply with the provisions of this section shall be a misdemeanor. Upon conviction, the person shall be subject to a fine of not less than five dollars ($5.00) nor more than fifty dollars ($50.00).

History. Acts 1969, No. 80, §§ 1-3; A.S.A. 1947, §§ 75-1047 — 75-1049; Acts 2011, No. 780, § 5.

Subchapter 6 — Arrest and Release

SECTION.
27-50-602. Cases in which person arrested must be taken immediately before magistrate.
SECTION.
27-50-603. Release upon promise to appear.

27-50-602. Cases in which person arrested must be taken immediately before magistrate.

Whenever any person is arrested for any violation of this act punishable as a misdemeanor, the arrested person shall be immediately taken before a magistrate or other proper officer within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the arrest is made, in any of the following cases:

(1) When a person arrested demands an immediate appearance before a magistrate;

(2) When the person is arrested and charged with an offense under this act causing or contributing to an accident resulting in injury or death to any person;

(3) When the person is arrested upon a charge of negligent homicide;

(4) When the person is arrested upon a charge of driving while under the influence of intoxicating liquor or narcotic drugs;

(5) When the person is arrested upon a charge of failure to stop in the event of an accident causing death, personal injuries, or damage to property; or

(6) In any other event when the person arrested refuses to give his or her promise to appear in court as provided.

History. Acts 1937, No. 300, § 154; Pope's Dig., § 6814; A.S.A. 1947, § 75-1007; Acts 2011, No. 908, § 4.

27-50-603. Release upon promise to appear.

(a) When a person is arrested for any violation of this act punishable as a misdemeanor and the person is not immediately taken before a magistrate as required, the arresting officer may issue an electronic citation or prepare in duplicate written notice to appear in court containing:

(1) The name and address of the person;

(2) The license number of his or her vehicle, if any;

(3) The offense charged; and

(4) The time when and place where the person shall appear in court, and if the officer is a bonded officer, he or she may require the person to post a bail bond and give receipt therefor.

(b) The time specified to appear must be at least five (5) days after the arrest unless the person arrested shall demand an earlier hearing.

(c) The place specified to appear shall be before a magistrate:

(1) Within the township or county in which the offense charged is alleged to have been committed; and

(2) Who has jurisdiction of the offense.

(d)(1) If issued a written citation, the arrested person in order to secure release, as provided in this section, must give his or her written promise so to appear in court by signing in duplicate the written notice prepared by the arresting officer or post a bail bond as may be required by the arresting officer.

(2) If issued an electronic citation, the arrested person in order to secure release, as provided in this section, acknowledges receipt of the notice to appear in court and gives his or her promise to appear in court by acceptance of the electronic citation.

(3)(A) The original of the notice to appear and of the receipt for bail shall be retained by the officer or electronically transmitted to the court, and the copy of each delivered to the person arrested.

(B) Thereupon, the officer shall forthwith release the person arrested from custody.

(e) An officer violating any of the provisions of this section shall be guilty of misconduct in office and shall be subject to removal from office.

History. Acts 1937, No. 300, § 155; Pope's Dig., § 6815; Acts 1961, No. 446, § 1; A.S.A. 1947, § 75-1008; Acts 2011, No. 908, § 5.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Judge Victor A. Fleming, DisAPPEARing Act: Arkansas's Circularly-Defined Default, 42 U. Ark. Little Rock L. Rev. 405 (2020).

Subchapter 8 — Convictions

SECTION.
27-50-805. Credibility as witness not affected.

27-50-805. Credibility as witness not affected.

The forfeiture of a bond or the conviction of a person upon a charge of violating any provision of this act or other traffic regulation or rule less than a felony shall not affect or impair the credibility of the person as a witness in any civil or criminal proceeding.

History. Acts 1937, No. 300, § 159; Pope's Dig., § 6819; Acts 1961, No. 216, § 2; A.S.A. 1947, § 75-1012; Acts 2019, No. 315, § 3148.

Amendments. The 2019 amendment inserted "or rule".

Subchapter 9 — Central Driver's Records File

SECTION.
27-50-906. Furnishing of abstracts — Definition.
27-50-910. [Repealed.]
27-50-911. Rules.
27-50-912. Driver monitoring program — Reports — Definitions.

Effective Dates. Acts 2015, No. 702, § 7: Jan. 1, 2016.

Acts 2017, No. 466, § 2: Mar. 13, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the law requiring notification to a licensed driver when a copy of his or her driving record is provided to another party is costly and cumbersome; that this requirement diverts resources away from other important state services and unless this requirement is eliminated some of these important state services will be reduced or eliminated; and that this act is immediately necessary to avoid state service reductions or cuts. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, heath, and safety shall be effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved or vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through

6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

27-50-906. Furnishing of abstracts — Definition.

(a)(1) The Office of Driver Services may furnish an abstract or driver confirmation record of any driver's record to:

(A) The driver on whom the record has been compiled;

(B) Any person who has been authorized in writing by the driver to obtain the driver's record;

(C) Any court having jurisdiction over traffic offenses;

(D) Any law enforcement officer, who shall use the report only in the line of duty in enforcing the traffic laws of this state;

(E) Employers of drivers, provided that the driver has given his or her written consent for the employer to obtain the driver's record;

(F) Any insurer licensed to do business in Arkansas or its agents, employees, or contractors in connection with the driving record or driver confirmation record of an insured or applicant and all licensed drivers in the household of the insured or applicant; and

(G) A governmental department or agency upon a showing of reasonable cause as to why the driver's record should be issued to the governmental department or agency in order for the governmental department or agency to effectively carry out its statutory duties.

(2)(A) A driver's license status report shall be available to rental car companies who otherwise meet the requirements of this section for receiving an abstract of a driver's record upon the payment of one dollar ($1.00) for each license number checked. This fee shall be deposited to the State Treasury into the State Central Services Fund as a direct revenue to be used by the Revenue Division of the Department of Finance and Administration.

(B) The Information Network of Arkansas may charge an additional fee under the Information Network of Arkansas Act, § 25-27-101 et seq., for the service of transmitting this information electronically.

(b) For purposes of this section, "driver confirmation record" means information in the office concerning the name, date of birth, and current address of the licensed driver.

(c)(1)(A) The fee for an insured's or applicant's driver confirmation record shall be ten cents (10¢) per record.

(B) This fee shall be deposited into the fund as a direct revenue to be used by the division.

(2) The network may charge an additional fee under the Information Network of Arkansas Act, § 25-27-101 et seq., for the service of transmitting this information electronically.

History. Acts 1977, No. 465, § 1; A.S.A. 1947, § 75-1057; Acts 1999, No. 1359, § 1; 2001, No. 1810, § 1; 2015, No. 702, §§ 2-4; 2015, No. 1158, § 12; 2017, No. 466, § 1.

Amendments. The 2017 amendment

deleted (a)(1)(G)(ii); and made a stylistic change.

Effective Dates. Acts 2015, No. 702, § 7: Jan. 1, 2016.

27-50-910. [Repealed.]

Publisher's Notes. This section, concerning disposition of funds, was repealed by Acts 2015, No. 702, § 5. The section was derived from Acts 1977, No. 465, § 8; 1979, No. 1067, § 1; A.S.A. 1947, § 75-1057.7; Acts 2011, No. 780, § 6.

Effective Dates. Acts 2015, No. 702, § 7: Jan. 1, 2016.

27-50-911. Rules.

The Secretary of the Department of Finance and Administration may promulgate rules necessary to carry out the provisions of this subchapter.

History. Acts 1977, No. 465, § 9; A.S.A. 1947, § 75-1057.8; Acts 2019, No. 315, § 3149; 2019, No. 910, § 4813.

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in the section heading and in the text.

The 2019 amendment by No. 910 substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration".

27-50-912. Driver monitoring program — Reports — Definitions.

(a) As used in this section:

(1) "Driver monitoring report" means a report issued by the Office of Driver Services to an insurer, under a written agreement between the office and the insurer, that indicates whether a driver has had a traffic violation or accident during the previous month; and

(2) "Insurer" means:

(A) An insurance company licensed to do business in this state; or

(B) The authorized agent of an insurance company licensed to do business in this state.

(b) The office shall establish a driver monitoring program to monitor and report the driving records of individuals at the request of an insurer.

(c) The office may enter into a written agreement with an insurer to monitor the driver record of persons holding an Arkansas driver's license and provide a monthly driver monitoring report for each insured or driver monitored. The office may cancel this agreement at any time.

(d) The driver monitoring report shall:

(1) Indicate whether a violation is posted to the official driver record during the previous month;

(2) Not identify the specific violation or violations posted on the driver record; and

(3) Be used by an insurer solely to evaluate the driving record of current policyholders for reunderwriting purposes.

(e) The office is not required to provide the notice and information required by § 27-50-906(a)(1)(G)(ii) [repealed] when issuing a driver monitoring report.

(f)(1) The office may charge a monthly fee of not less than twelve cents (12¢) and not more than nineteen cents (19¢) for each insured monitored.

(2) The office authorizes that one cent (1¢) of the revenues from subdivision (f)(1) of this section shall be special revenues and deposited into the State Treasury to the credit of the State Highway and Transportation Department Fund for distribution as provided in the Arkansas Highway Revenue Distribution Law, § 27-70-201 et seq.

(3) The remaining revenues derived from subdivision (f)(1) of this section shall be deposited into the State Central Services Fund as direct revenue to be used by the Revenue Division of the Department of Finance and Administration.

(4) The Information Network of Arkansas may charge insurers or their agents an additional fee under the Information Network of Arkansas Act, § 25-27-101 et seq., for transmitting a driver monitoring report electronically.

(g) The insurer is required to purchase a driving record pursuant to § 27-23-117(3) for any monitored insured or driver when the driver monitoring report indicates a violation has been posted to the driver's record during the previous month.

History. Acts 2015, No. 702, § 6.
Effective Dates. Acts 2015, No. 702, § 7: Jan. 1, 2016.

Subchapter 11 — Abandoned Vehicles

SECTION.
27-50-1101. Nonconsensual towing of a vehicle, implement, or piece of machinery — Definition.
SECTION.
27-50-1103. Wheel clamps — Definition.

27-50-1101. Nonconsensual towing of a vehicle, implement, or piece of machinery — Definition.

(a)(1)(A) When a vehicle of a type subject to registration under the laws of this state, an implement, or a piece of machinery is found abandoned on private or public property within this state or is parked on private or public property within this state without the authorization of the property owners or other persons controlling the property, the property owner or his or her agent may have the vehicle, implement, or piece of machinery removed from the property by a towing and storage firm licensed by and subject to the rules of the Arkansas Towing and Recovery Board.

(B)(i) A county, city of the first class, city of the second class, or incorporated town by ordinance may regulate the manner that a property owner or other person controlling the property removes a vehicle, implement, or piece of machinery:

(a) By limiting:

(1) The distance from the location of removal to the destination of storage;

(2) The amount of towing and storage charges, including the towing charge, the storage charge, the administrative fee, and any other fee that may be charged, to be assessed against the owner or operator of the vehicle, implement, or piece of machinery removed from the property, with the difference between the charges allowed by the county, city, or incorporated town and the actual towing and storage charges to be assessed to the property owner or other person controlling the property that requested the removal of the vehicle; and

(3) The request for removal of a vehicle, implement, or piece of machinery from the property to a towing and storage firm that accepts payment methods of cash, credit cards, or debit cards; and

(b) By requiring signage under § 27-51-1305 to include:

(1) The name, address, and telephone number of the towing and storage firm that may provide removal services from the parking lot;

(2) The amount of towing and storage charges that may be assessed against the owner or operator of the vehicle, implement, or other machinery; and

(3) Disclosing whether the towing and storage firm will accept the payment methods of cash, checks, credit cards, or debit cards.

(ii) An ordinance enacted under this subdivision (a)(1)(B) shall not conflict with this section.

(C) Prior to the removal of an abandoned vehicle, implement, or piece of machinery or a vehicle, implement, or piece of machinery parked without authority as provided by this section, the towing and storage firm shall obtain in writing from the property owner or agent a written statement that includes at a minimum the following:

(i) Identification of the property owner or agent, including name, address, and telephone number;

(ii) A statement that the property from which the vehicle, implement, or piece of machinery is to be removed is property owned or otherwise under the control of the agent requesting the removal;

(iii) That the vehicle, implement, or piece of machinery is deemed abandoned or has been parked on the property without authorization, as the case may be;

(iv) The make, model, and vehicle identification number or serial number of the vehicle, implement, or piece of machinery to be removed;

(v) The location to which the vehicle, implement, or piece of machinery will be removed, including the name, address, and telephone number of the towing and storage firm removing the vehicle, implement, or piece of machinery; and

(vi) The signature of the property owner or agent requesting removal of the vehicle, implement, or piece of machinery.

(D) A copy of the written statement shall be left with the property owner or the on-site agent, who shall make the written statement

available for inspection upon request by any person claiming an interest in the removed vehicle, implement, or piece of machinery.

(E) The towing and storage firm removing the vehicle, implement, or piece of machinery shall retain a copy of the written statement for three (3) years and make the statement available during regular business hours upon request to any person claiming an interest in the removed vehicle, implement, or piece of machinery or upon request to any law enforcement officer or board investigator.

(F) Unless other arrangements have been made with a repair business, a vehicle, implement, or piece of machinery on the premises of a repair business shall be deemed abandoned if either:

(i) The vehicle, implement, or piece of machinery is unclaimed by the owner within forty-five (45) days; or

(ii) The debt is not paid within forty-five (45) days from the time the repair work is complete.

(G) A towing and storage firm shall not remove any abandoned vehicle, implement, or piece of machinery or improperly parked vehicle, implement, or piece of machinery without the authorization of the property owner or on-site agent as provided in this section except as may otherwise be authorized by the provisions of § 27-50-1201 et seq. or as directed by any law enforcement officer.

(H) A towing and storage firm removing a vehicle, implement, or piece of machinery as provided by this section shall not pay any compensation related to the removal of the vehicle, implement, or piece of machinery, whether as a referral fee or otherwise, to the owner or agent requesting the removal of the vehicle, implement, or piece of machinery.

(2)(A) Any person towing a vehicle, implement, or piece of machinery as provided by this section and any person towing a vehicle, implement, or piece of machinery without the authorization of the owner or the owner's agent, including towing pursuant to a directive of repossession from a holder of a security interest in the vehicle, implement, or piece of machinery, shall notify the local police department or sheriff's office within whose jurisdiction the vehicle, implement, or piece of machinery was removed of the removal within two (2) hours of taking possession of the vehicle, implement, or piece of machinery.

(B) The towing and storage firm may not charge a storage fee for the vehicle, implement, or piece of machinery for the time it is stored prior to the notification required to the local police department or sheriff's office.

(C) Each police department or sheriff's office receiving notification of the removal of a vehicle, implement, or piece of machinery as provided in this subsection shall maintain a log recording the following information related to the vehicle, implement, or piece of machinery:

(i) Make;

(ii) Model;

(iii) Vehicle identification number or serial number;

(iv) Date, time, and location of the removal; and

(v) Name, address, and telephone number of the person removing the vehicle, implement, or piece of machinery.

(D)(i) Each police department or sheriff's office that receives notification of the removal of a vehicle, implement, or piece of machinery as provided in this subsection shall within twenty-four (24) hours of notification provide to the towing and storage firm information supplied from the records of the Office of Motor Vehicle, the Arkansas Crime Information Center, or, if there is evidence in the vehicle, implement, or piece of machinery indicating that it is registered in or from another state, the registration records from that state, the name and address of the last registered owner, and the name and address of the holder of any recorded lien on the vehicle, implement, or piece of machinery.

(ii) If the information under subdivision (a)(2)(D)(i) of this section is not available for an implement or piece of machinery, the police department or sheriff's office that receives notice of the removal shall provide at a minimum whether any record exists in the records of the Office of Motor Vehicle or the Arkansas Crime Information Center regarding the implement or piece of machinery.

(E)(i) In the event that readily available records fail to disclose the name of the owner of the vehicle, implement, or piece of machinery or any lienholder of record, the towing and storage firm shall perform a good faith search to locate documents or other evidence of ownership and lienholder information on or within the unattended or abandoned vehicle, implement, or piece of machinery.

(ii) For purposes of this subdivision (a)(2)(E), a "good faith search" means that the towing and storage firm checks the unattended or abandoned vehicle, implement, or piece of machinery for any type of license plate, license plate record, temporary permit, inspection sticker, decal, or other evidence that indicates a possible state of registration and title or other information related to the owner.

(3)(A) Following removal of an abandoned vehicle or vehicle parked without authority, possession of the vehicle, notice requirements to owners and lienholders, and procedures for sale of unclaimed vehicles shall be governed by the provisions of §§ 27-50-1208 — 27-50-1210.

(B)(i) The following procedures for the sale of an abandoned and unattended vehicle that is removed from a property as provided under §§ 27-50-1208 — 27-50-1210 shall apply in the same manner to an abandoned and unattended implement or piece of machinery:

(a) Possession of the implement or piece of machinery;

(b) Notice to owners and lienholders; and

(c) Procedures for sale.

(ii) The towing and storage company shall have a first priority possessory lien on the implement or piece of machinery and its contents for all reasonable charges for towing, recovery, and storage subject to the limits provided by ordinance if one is in effect.

(iii) Except as provided under subdivision (a)(3)(B)(iv) of this section, the lien against the implement or piece of machinery shall be perfected and all of the procedures related to the implement or piece of machinery shall be handled in the same manner as provided under § 27-50-1208(b)-(e) for abandoned and unattended vehicles.

(iv) If information on the owner or owners of an implement or piece of machinery that is in the possession of a towing and storage company is not available under subdivisions (a)(2)(D) and (E) of this section, the towing and storage company shall provide notice by publication in a newspaper of general circulation in the region from where the implement or piece of machinery was removed and posting on the website that is sponsored and managed by the board for that purpose.

(C)(i) Notwithstanding any provision of law to the contrary and to the extent that the county, city of the first class, city of the second class, or incorporated town enacted an ordinance that limits the amount of towing and storage charges assessed against the owner or operator of the vehicle, implement, or piece of machinery, the towing and storage company shall have a first priority possessory lien limited to the amount allowed under the ordinance.

(ii) The towing and storage company may assess any remaining charges to the property owner or other person controlling the property who requested the vehicle, implement, or piece of machinery be removed from the property.

(b) A county or city attorney may refer a possible violation of this section or an ordinance enacted under this section to the board for investigation.

(c)(1) It shall be unlawful for a person to:

(A) Direct the removal of or to remove a vehicle, implement, or piece of machinery in violation of this section; and

(B) Violate or aid or abet any violation of this section.

(2)(A) A person who pleads guilty or nolo contendere to or is found guilty of any violation of this section is guilty of a Class B misdemeanor.

(B) The information related to a plea of guilty or nolo contendere to or conviction for a violation as provided under subdivision (c)(2)(A) of this section shall be reported to the board.

(3) The removal of each vehicle, implement, or piece of machinery in violation of this section shall constitute a distinct and separate offense.

History. Acts 1953, No. 344, § 1; 1969, No. 195, § 1; 1981, No. 433, § 1; A.S.A. 1947, § 75-1034; Acts 1987, No. 166, § 1; 1987, No. 828, § 1; 1989, No. 680, § 1; 1997, No. 841, § 1; 1999, No. 1279, §§ 1, 6; 2001, No. 328, § 3; 2005, No. 2211, § 1; 2007, No. 861, § 1; 2009, No. 681, § 1; 2013, No. 1319, §§ 1-4; 2021, No. 794, § 1.

Amendments. The 2021 amendment added "and posting on the website that is sponsored and managed by the Arkansas Towing and Recovery Board for that purpose" in (a)(3)(B)(iv); and made a stylistic change.

27-50-1103. Wheel clamps — Definition.

(a) As used in this section, "wheel clamp" means a device fixed onto a wheel of a parked motor vehicle that renders the motor vehicle immobile.

(b) A county, city of the first class, city of the second class, or incorporated town may by ordinance regulate the use of wheel clamps.

History. Acts 2013, No. 1364, § 1.

Subchapter 12 — Removal or Immobilization of Unattended or Abandoned Vehicles

SECTION.
27-50-1201. Applicability.
27-50-1202. Definitions.
27-50-1203. Arkansas Towing and Recovery Board — Creation.
27-50-1204. Penalties.
27-50-1205. Tagging.
27-50-1206. Notice to storage firm — Definition.
27-50-1207. Removal of vehicles.
27-50-1208. Possessory lien and notice to owners and lienholders.
27-50-1209. Foreclosure of liens.
27-50-1210. Nonjudicial public sale.
27-50-1212. Criminal penalties.
27-50-1216. Moving a total-loss vehicle from a storage facility — Definition.

SECTION.
27-50-1217. Reporting of towing rates.
27-50-1218. Consumer complaint process.
27-50-1219. Suspension from law enforcement nonconsent rotation list.
27-50-1220. Authority to issue citations.
27-50-1221. Owner preference complaint.
27-50-1222. Nonconsent towing rotation — Heavy-duty motor vehicles — Definitions.
27-50-1223. Removal of unattended vehicles — Liability.

A.C.R.C. Notes. Acts 2013, No. 1421, § 1, provided: "The name of Arkansas Code Title 27, Chapter 50, Subchapter 12, is changed from 'Removal of Unattended or Abandoned Vehicles' to 'Removal or Immobilization of Unattended or Abandoned Vehicles'. The Arkansas Code Revision Commission shall make all changes in the Arkansas Code necessary to implement this section."

Effective Dates. Acts 2011, No. 1061, § 8: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2011 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2011 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2011."

Acts 2013, No. 1366, § 8: July 1, 2013. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2013 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2013 could work

irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2013."

Acts 2019, No. 1063, § 3: Jan. 1, 2020. Effective date clause provided: "Section 1 of this act is effective on and after January 1, 2020."

27-50-1201. Applicability.

(a) This subchapter applies to a person that either:

(1) Engages in the towing or storage of vehicles in the State of Arkansas; or

(2) Performs vehicle immobilization service.

(b) This subchapter does not apply to the following tow vehicles and related equipment:

(1) Car carriers capable of carrying five (5) or more vehicles and that have authority from the Federal Motor Carrier Safety Administration;

(2) Tow vehicles owned by a governmental entity and not used for commercial purposes;

(3) If in compliance with § 27-35-112, tow vehicles that are:

(A) Registered in another state;

(B) Operating under authority from the administration; and

(C) Not regularly doing business or soliciting business in the State of Arkansas; and

(4) Tow vehicles used for noncommercial purposes, including without limitation tow vehicles used:

(A) For personal use;

(B) For transporting historic, special interest, or antique vehicles; or

(C) As parade tow vehicles.

History. Acts 1993, No. 1000, § 1; 2005, No. 1878, § 3; 2011, No. 1061, § 4; 2013, No. 1136, § 1; 2013, No. 1421, § 2; 2021, No. 789, §§ 1, 2.

Amendments. The 2021 amendment deleted "and is hired to tow or store the vehicle" following "Arkansas" in (a)(1); and added (b)(4).

27-50-1202. Definitions.

As used in this subchapter:

(1) "Abandoned vehicle" means a vehicle deemed to be an unattended vehicle as defined in this section:

(A) As to which the owner has overtly manifested some intention not to retake possession; or

(B) That remains unattended, whether in its first-found location or in another location to which it has been removed under this subchapter, for a period of thirty (30) days during which period the owner gives no evidence of an intent to retake possession;

(2)(A) "Consent" means towing, storage, or recovery of a vehicle, which towing, storage, or recovery is done with the permission of the owner or other person in charge of the vehicle.

(B) "Consent" does not include the repossession of a vehicle by the vehicle lienholder, agent, or other person working on behalf of the lienholder;

(3) "Impounded or seized vehicle" means a vehicle subject to impounding or seizure by law enforcement under this Code, the Arkansas Rules of Criminal Procedure, a court order, or an ordinance;

(4) "Nonconsent" means towing, storage, or recovery of an unattended vehicle, abandoned vehicle, or impounded or seized vehicle as defined in this section or a disabled or inoperative vehicle without the express or implied permission of the vehicle owner, operator, agent, or person in charge of the vehicle;

(5) "Owner" means, in the absence of conclusive evidence to the contrary, the person in whose name the vehicle is registered with the Office of Motor Vehicle or in whose name the vehicle is registered in another state;

(6) "Owner preference" means the right of the owner, the owner's agent, or a competent occupant of a disabled or inoperative vehicle subject to nonconsent towing, storage, or recovery to request some responsible and reasonable person, gratuitous bailee, bailee for hire, or properly licensed or permitted tow facility chosen by the owner, the owner's agent, or a competent occupant of the vehicle, to take charge and care of the vehicle;

(7) "Person" means an individual, partnership, corporation, association, or other entity;

(8) "Public way" means a road, highway, or street over which the public may travel, including the traveled surface and a berm or shoulder of a road, highway, or street;

(9) "Removal" means that a law enforcement officer may request a towing and storage firm that is licensed by the Arkansas Towing and Recovery Board to engage in nonconsent towing of vehicles to remove and store:

(A) An unattended vehicle or abandoned vehicle under this subchapter;

(B) A disabled or inoperative vehicle for which the owner or person in charge of the vehicle has waived his or her right to owner preference as defined in this section;

(C) A vehicle in which the operator was apprehended by law enforcement officers; or

(D) An impounded or seized vehicle;

(10) "Repossession" means towing, storage, or recovery of a vehicle by the vehicle lienholder, agent, or other person working on behalf of the lienholder;

(11) "Tow business" or "towing business" means a corporation or a business entity with an alternate DBA name, filed with the Secretary of State and regulated by the board to be used exclusively for the operation of a tow facility, vehicle immobilization company, or a storage facility, including without limitation a business that:

(A) Dispatches tow vehicles for nonconsent towing or repossession;

(B) Stores vehicles; and

(C) Conducts business with the general public;

(12) "Tow vehicle" means a motor vehicle or related equipment subject to registration in the State of Arkansas that is used to tow, recover, upright, transport, or otherwise facilitate the movement of vehicles on public highways;

(13) "Unattended vehicle" means a vehicle that:

(A) Is left on public property without the consent of an authority in charge of the property or on or near a public way without some person, gratuitous bailee, or bailee for hire in possession of the vehicle and that:

(i) Is located within a distance of three feet (3') of the traveled surface of the public way;

(ii) Is located on or near a public way at a distance of three feet (3') or more of the traveled surface of the public way for a period of twenty-four (24) hours or more; or

(iii) Is not located on or near a public way but is left for a period of forty-eight (48) hours or more;

(B) Does not remain in the custody of a responsible person following an accident where the operator has been removed to a hospital or is otherwise unable to make personal arrangements for the vehicle's care;

(C) Was operated to a place of apprehension by law enforcement under police power and the operator was removed from the vehicle and taken into police custody;

(D) Is located upon a public right of way and due to geographic location, traffic density, or climatic conditions is creating an immediate and substantial hazard to the motoring public, as determined by a law enforcement officer; or

(E) Is disabled or inoperative and located on or near a public way or on a public right-of-way, and honoring the owner preference would create an immediate and substantial hazard to the motoring public, as determined by a law enforcement officer, due to:

(i) Geographic location;

(ii) Traffic density; or

(iii) Climatic conditions;

(14) "Vehicle" means a device by which persons or things may be transported upon a public highway and which is of the type subject to registration in Arkansas;

(15) "Vehicle immobilization service" means a person operating or directing others to operate a wheel clamp; and

(16) "Wheel clamp" means a device attached to a wheel of a vehicle that renders the vehicle immobile.

History. Acts 1993, No. 1000, § 2; 1997, No. 381, § 1; 1997, No. 392, § 1; 1999, No. 1279, § 4; 2001, No. 1830, §§ 1, 2; 2007, No. 1053, § 1; 2011, No. 1025, § 1; 2013, No. 1421, § 3; 2017, No. 953, §§ 1, 2; 2019, No. 176, § 1; 2021, No. 789, §§ 3-5.

Amendments. The 2017 amendment substituted "without the express or im-

plied permission of the vehicle owner, operator, agent, or person in charge of the vehicle" for "for which the owner preference is waived by the owner or person in charge of the vehicle" in (4); in (6), inserted "subject to nonconsent towing, storage, or recovery" and substituted "or properly licensed or permitted tow facility chosen by the owner, the owner's agent, or a competent occupant of the vehicle" for "of his or her choosing"; and made a stylistic change.

The 2019 amendment added the definition for "Tow business" and redesignated the definitions in alphabetical order.

The 2021 amendment redesignated former (2) as (2)(A), and added (2)(B); substituted "nonconsent towing or" for "nonconsent or consent towing and" in (11)(A); and added the definition for "Repossession".

27-50-1203. Arkansas Towing and Recovery Board — Creation.

(a)(1) There is hereby created the Arkansas Towing and Recovery Board consisting of nine (9) members appointed by the Governor and confirmed by the Senate, who shall serve terms of three (3) years.

(2)(A) Five (5) members shall be appointed from the towing industry and shall be:

(i) Licensed by the board to engage in nonconsent towing; and

(ii) Appointed from the state at large.

(B) One (1) member who is permitted to engage in repossession of vehicles using a tow vehicle shall be appointed from the state at large.

(C) Two (2) members who are not associated with the towing industry shall be appointed from the state at large.

(D) One (1) member shall be appointed from the insurance industry.

(b)(1) The appointed board members shall be residents of the State of Arkansas at the time of appointment and throughout their terms.

(2)(A) A member appointed under subdivision (a)(2)(A) of this section shall remain engaged in the business of nonconsent towing.

(B) A member appointed under subdivision (a)(2)(B) of this section shall be engaged in the business of vehicle repossession using a tow vehicle.

(C) A member appointed under subdivision (a)(2)(D) of this section shall remain actively engaged in the insurance industry.

(D) A member appointed under subdivision (a)(2)(A), subdivision (a)(2)(B), or subdivision (a)(2)(D) of this section who no longer satisfies the requirements for his or her board position under subdivision (b)(2)(A), subdivision (b)(2)(B), or subdivision (b)(2)(C) of this section shall:

(i) Provide notification of his or her change of status to the Governor and the Director of the Arkansas Towing and Recovery Board; and

(ii) Resign from the board within thirty (30) days of the date upon which the member no longer satisfies the requirements of subdivision (b)(2)(A), subdivision (b)(2)(B), or subdivision (b)(2)(C) of this section.

(c)(1) The members shall determine by majority vote of the quorum of the board who shall serve as chair.

(2) The chair shall be elected annually from the membership of the board.

(d)(1) The board shall meet at such times and places that the chair deems necessary, but no meeting shall be held outside the State of Arkansas.

(2) Five (5) of the members of the board shall constitute a quorum for the purpose of transacting business.

(3) All actions of the board shall be by a quorum.

(e)(1) The board shall promulgate rules to carry out the intent of this subchapter and shall regulate the towing industry and vehicle immobilization service industry, including:

(A) Establishing reasonable licensing, insurance, and equipment requirements for any person engaging in towing and related services for safety purposes or vehicle immobilization services under this subchapter;

(B) Establishing reasonable tow truck safety requirements for any tow vehicle as defined in this subchapter;

(C) Establishing a procedure to accept and investigate complaints from a consumer who claims that he or she has been overcharged for fees related to nonconsent towing, recovery, storage, or vehicle immobilization services;

(D) Determining and sanctioning excessive or unnecessary fees charged to consumers related to nonconsent towing, recovery, storage, or vehicle immobilization services;

(E) Requiring all entities permitted, licensed, or regulated under this subchapter to provide to the board all documents in response to information requests by the board pursuant to the investigation of consumer complaints or board complaints against the permittee or licensee;

(F) Requiring all entities permitted, licensed, or regulated under this subchapter to provide itemized billing for fees related to towing, storage, or vehicle immobilization services that explains how the charges were calculated;

(G) Requiring all entities permitted, licensed, or regulated under this subchapter to maintain a copy of their current maximum rate schedule or fee schedule posted in a conspicuous place and readily accessible to the public;

(H) Requiring all entities permitted, licensed, or regulated under this subchapter to allow the owner or agent of the owner of a motor vehicle removed under this subchapter or under § 27-50-1101 to use any other entity permitted, licensed, or regulated under this subchapter when reclaiming the motor vehicle from storage;

(I)(i) Requiring all entities permitted, licensed, or regulated under this subchapter to post a sign notifying customers of the consumer complaint process under § 27-50-1218.

(ii) The sign shall be in a conspicuous and central location in the public area and shall be a minimum of sixteen inches by twenty inches (16″ x 20″) in size.

(iii) The board may assess a fine of between fifty dollars ($50.00) and two hundred fifty dollars ($250) for failure to comply with the provisions of this subdivision (e)(1)(I);

(J)(i) Setting a minimum standard for the structure of the place of business and storage facility located in Arkansas and utilized for the daily operation of a towing company licensed and regulated under this subsection.

(ii) The place of business shall utilize:

(a) A location easily accessible by the public;

(b) An appropriate and secure filing system for business records; and

(c) Clear and visible signage displaying the name on the business license issued by the board that:

(1) Is a minimum of four feet by six feet (4' x 6') in size or meets the criteria established by a municipal zoning ordinance, subdivision regulation, or building code; and

(2) Displays the name, physical address, a published telephone number of the towing company, and hours of operation;

(K) Adopting rules for the:

(i) Registration of a person engaged in a consent-only towing business;

(ii) Issuance of a certificate of registration required under subdivision (f)(1)(A)(iii) of this section; and

(iii) The denial, revocation, or suspension of a license or permit issued under this subchapter; and

(L) Establishing a website that is sponsored and managed by the board for a towing business to post the notice required by § 27-50-1101 and this subchapter.

(2) The promulgation and adoption of rules shall in all respects be in the manner provided by the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(3) After the promulgation and adoption of rules, any proposed change to add to, amend, repeal, or change any of the rules shall not have effect until reviewed and approved by the Administrative Rules Subcommittee of the Legislative Council subsequent to the time that the General Assembly next meets in regular session unless a finding exists that imminent peril to the public health, safety, or welfare requires immediate adoption, amendment, or repeal of the rules.

(f)(1)(A) The board may charge:

(i) Towing business license, repossession towing license, and vehicle immobilization service license fees not to exceed two hundred dollars ($200) per license;

(ii) A fee not to exceed one hundred dollars ($100) per tow vehicle safety permit; and

(iii) A fee for a certificate of registration for consent towing not to exceed twenty-five dollars ($25.00).

(B) A person licensed by the board to perform towing services is authorized to perform vehicle immobilization services without obtaining a separate vehicle immobilization service license.

(2) The board shall also have the authority to impose late filing fees in addition to the original filing fees in an amount not to exceed the original amount of the license fee or safety permit fee.

(g)(1) The board shall have the authority to employ and discharge any personnel as may be necessary to administer and enforce the provisions of this subchapter and the rules promulgated hereunder.

(2) The board shall employ investigators to investigate consumer complaints related to overcharging for nonconsent towing, recovery, storage fees, fees associated with the use of wheel clamps, violations of § 27-50-1101, this subchapter, and violations of the rules promulgated by the board under this subchapter.

(h) The board shall have the authority to obtain office space, furniture, stationery, and other proper supplies and conveniences reasonably necessary to carry out the provisions of this subchapter.

(i) Each member of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

(j) The board shall have the authority to establish a maximum amount to be charged by a towing business for each notification to an owner and a lienholder as required by this subchapter.

(k) The board shall issue a towing business license or issue a tow vehicle safety permit for a tow vehicle licensed in another state to tow any vehicle in this state only when the tow vehicle owner establishes to the board's satisfaction that the operation of the tow vehicle in this state is in compliance with § 27-35-112.

History. Acts 1989, No. 899, § 9; 1993, No. 1000, § 3; 1997, No. 250, § 246; 1997, No. 392, § 2; 1999, No. 1279, § 2; 2005, No. 1878, § 2; 2007, No. 861, §§ 2-4; 2007, No. 1053, § 2; 2011, No. 780, § 8; 2013, No. 1002, §§ 1, 2; 2013, No. 1366, § 4; 2013, No. 1421, §§ 4, 5; 2015, No. 1117, § 2; 2015, No. 1195, § 1; 2015, No. 1197, § 1; 2017, No. 953, §§ 3-5; 2019, No. 315, §§ 3150-3152; 2021, No. 789, §§ 6-10; 2021, No. 794, § 2.

Amendments. The 2017 amendment rewrote (a)(2)(A); redesignated the former subdivisions in (e)(1)(J) as (e)(1)(J)(i) and (ii); inserted "located in Arkansas and" in (e)(1)(J)(i); rewrote (e)(1)(J)(ii)(*c*); and rewrote (f)(1)(A).

The 2019 amendment deleted "and regulations" following "rules" in the introductory language of (e)(1), (e)(2), and (g)(1); and, in (e)(3), deleted "or regulations" following "rules" three times, and substituted "Administrative Rules Subcommittee" for "Administrative Rules and Regulations Subcommittee".

The 2021 amendment by No. 789 substituted "Five (5) members" for "Four (4) members" in (a)(2)(A); rewrote (a)(2)(B) and (b)(2)(B); substituted "Setting" for "The board shall set" in (e)(1)(J)(i); added (e)(1)(K); inserted "repossession towing license" in (f)(1)(A)(i); and added (f)(1)(A)(iii).

The 2021 amendment by No. 794 added (e)(1)(L).

27-50-1204. Penalties.

(a)(1) The following shall be liable for all reasonable costs of towing, recovery, storage, and other incidental costs related to a removal of a vehicle under this subchapter:

(A) The owner of the vehicle;

(B) The person who left the unattended vehicle or abandoned vehicle before removal; and

(C) An owner or operator who waives the owner preference.

(2) If the vehicle is sold by foreclosure under § 27-50-1209, the owner or operator shall be liable for such costs in excess of the proceeds of the sale of the vehicle.

(b) Any law enforcement agency that without reasonable justification fails to provide information to the towing and storage firm within twenty-four (24) hours as prescribed by this subchapter shall be liable to the towing and storage firm for any accrued storage fees between the expiration of the twenty-four-hour period and such time as the information is provided.

(c) Upon any complaint or on its own initiative when the Arkansas Towing and Recovery Board has reason to believe that a law enforcement officer failed to adhere to an owner preference request or otherwise violated this subchapter, the board may investigate the matter and submit its findings to proper law enforcement authorities.

(d) Any person, excluding a law enforcement officer, who is determined by the board after reasonable notice and opportunity for a fair and impartial hearing held in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., to have committed an act that is in violation of this subchapter or any rules promulgated under this subchapter is subject to civil penalties prescribed by the board, including monetary penalties not to exceed five thousand dollars ($5,000) or the suspension or revocation of any towing license or permit, or both.

(e) Nothing in this section shall be construed to limit the right to seek judicial review of any determination of the board pursuant to the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(f)(1) A penalty assessed by the board shall be paid no later than fifteen (15) days after the conclusion of the appeals process under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(2) If not paid timely, a license or permit issued by the board may be suspended until the penalty is paid.

(3)(A) If an entity or individual fails to pay a fine or an installment payment as provided under subdivision (f)(1) of this section, the board may provide written notice to the Office of Motor Vehicle of the failure to pay.

(B) The notice of the failure to pay a fine ordered by the board shall contain the following information:

(i) The name of the entity or individual that is subject to the fine;

(ii) The vehicle identification number or other identifying information for the vehicle owned by the entity or individual that is the subject of the fine;

(iii) The date the board imposed the fine;

(iv) The amount of the fine;

(v) The date the fine or installment payment became delinquent; and

(vi) The amount of the fine or installment payments that remain delinquent.

(C) Upon receipt of the notice of the failure to pay a fine or installment payment, the Office of Motor Vehicle shall suspend the tow vehicle license plate issued under § 27-14-601(a)(3)(J)(i) and the vehicle's registration.

(D) A suspension under this subdivision (f)(3) for failure to pay a fine ordered by the board shall remain in effect until the Office of Motor Vehicle receives written notice from the board that the fine has been paid.

History. Acts 1993, No. 1000, § 10; 2005, No. 1878, § 4; 2005, No. 2211, § 2; 2007, No. 861, §§ 5, 6; 2007, No. 1053, §§ 3-5; 2011, No. 732, § 1; 2011, No. 1025, § 2; 2019, No. 315, § 3153.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (d).

27-50-1205. Tagging.

Any law enforcement officer or code enforcement officer as defined by municipal ordinance observing an unattended vehicle, abandoned vehicle, disabled vehicle, or inoperative vehicle on or near a public way shall:

(1)(A) Order immediate removal of the vehicle if it:

(i) Is located within three feet (3') of the traveled surface of a public way; or

(ii) Appears to create an immediate and substantial hazard to the public; and

(B) Log the removal order accordingly; or

(2)(A) Tag the vehicle if it is located at a distance of three feet (3') or more from the traveled surface of a public way by securely affixing a colored form or other easily observable sticker.

(B) The tag or sticker used under this subdivision (2) shall show:

(i) The date and time of tagging;

(ii) That the vehicle will be removed under this subchapter unless the vehicle is removed within twenty-four (24) hours;

(iii) The location and telephone number where more information may be obtained; and

(iv) The identification of the officer.

History. Acts 1993, No. 1000, § 5; 1999, No. 1279, § 3; 2007, No. 100, § 1; 2007, No. 1053, § 6; 2011, No. 1025, § 3.

27-50-1206. Notice to storage firm — Definition.

(a)(1) For all requests to a licensed towing and storage firm to remove and store an unattended vehicle, abandoned vehicle, or impounded or seized vehicle, the law enforcement agency shall issue a written order that states the removal is for nonconsent services and shall provide information supplied from the records of the Office of Motor Vehicle, Arkansas Crime Information Center records, or the motor vehicle records of another state indicating the name and address of the last registered owner, the name and address of the holder of any recorded lien on the vehicle, and the vehicle identification or serial number of the vehicle.

(2) If there is evidence in the vehicle indicating that the vehicle is registered in another state, the information shall be supplied from the motor vehicle records of that state.

(3)(A) If a law enforcement officer or other official issues a hold against the release of the vehicle, the law enforcement officer's order to remove and store the vehicle shall include a written explanation for the issuance of the hold.

(B) When the hold on the vehicle is released, the law enforcement officer or other official who issued the hold shall provide written notice of the release to the towing and storage firm.

(b)(1) In the event that readily available records fail to disclose the name of the owner or any lienholder of record, the law enforcement officer or his or her agency shall notify in writing the towing and storage firm that after receiving the notice the towing and storage firm is required to perform a good faith search to locate documents or other evidence of ownership and lienholder information on or within the unattended vehicle, abandoned vehicle, or impounded or seized vehicle.

(2) For purposes of this subsection, a "good faith search" means that the towing and storage firm checks the unattended vehicle, abandoned vehicle, or impounded or seized vehicle for any type of license plate, license plate record, temporary permit, inspection sticker, decal, or other evidence that may indicate a possible state of registration and title.

(3) The towing and storage firm shall provide in writing to the law enforcement officer or agency the results of the search and, if appropriate, certify that a physical search of the unattended vehicle, abandoned vehicle, or impounded or seized vehicle disclosed that no ownership documents were found and that a good faith search was conducted.

(4) If the vehicle is subject to a hold limiting access to the vehicle, the law enforcement agency issuing the hold shall perform a good faith search to locate documents or other evidence of ownership and lienholder information to the extent required to preserve limited access to the vehicle.

(c)(1) Within not more than twenty-four (24) hours from the order to remove, the officer involved or his or her agency shall contact the towing and storage firm and advise the firm of any unusual circumstances

causing the delay of the required information that was not available to the officer at the time the order to remove was issued.

(2) The officer or agency shall provide the delayed information immediately upon receipt.

(d) When a vehicle is removed under this subchapter by law enforcement and is subject to impoundment or seizure pursuant to police power or any lawful court order, the law enforcement officer shall provide to the towing and storage firm a written statement setting forth the conditions of release of the vehicle.

History. Acts 1993, No. 1000, § 6; 2005, No. 1878, § 5; 2007, No. 1053, § 7; 1997, No. 841, § 2; 2001, No. 1830, § 3; 2011, No. 1025, § 4.

27-50-1207. Removal of vehicles.

(a)(1) A law enforcement agency that directs the removal of an unattended vehicle, abandoned vehicle, or impounded or seized vehicle shall adopt a written vehicle removal policy, the provisions of which shall not be in conflict with this subchapter.

(2)(A) Any vehicle removal policy shall provide that owner preference as defined by this subchapter shall be offered to the owner, to his or her agent, or to any competent occupant of any disabled or inoperative vehicle except in those instances of exigent circumstances or where the immediate clearing of a public thoroughfare mandates an expedited towing service.

(B) In those instances where exigent circumstances or where the immediate clearing of a public thoroughfare mandates an expedited towing service, owner preference shall be honored when the owner has requested a towing service that is located in the particular towing zone where services are to be rendered and is ready to promptly respond to the request for services.

(C)(i) If a law enforcement officer fails to provide an owner of a vehicle with an owner preference as required under this section, then the owner may file a complaint with the law enforcement agency that employs the law enforcement officer or the Arkansas Towing and Recovery Board, or both.

(ii) Nothing in this subsection precludes a person who has been denied the right of owner preference from seeking any other legal or equitable remedy.

(3) Nothing in this section shall be construed to authorize the towing of a vehicle in violation of other provisions of this subchapter.

(b) All law enforcement officers shall comply with the policies prescribed by their agencies as to the removal of an unattended vehicle, abandoned vehicle, or impounded or seized vehicle as defined by this subchapter.

(c) No law enforcement officer shall:

(1) Suggest or recommend any particular towing and storage firm to the owner, his or her agent, or any competent occupant of any disabled or inoperative vehicle; or

(2) Accept gifts or special consideration from the owner of a towing business or anyone acting on the owner's behalf in relation to removal of vehicles as provided by this subchapter.

(d) Upon request, any law enforcement officer or his or her agency who orders a removal pursuant to this subchapter shall provide to the owner, to his or her agent, or to any competent occupant of the removed vehicle the name, location, and telephone number of the towing and storage firm requested to remove and store the vehicle.

(e)(1) Should the owner or lienholder of a vehicle removed under this subchapter consider that the removal of the vehicle was not legally justified or properly subject to a law enforcement hold, the owner or lienholder may within thirty (30) days after removal or within thirty (30) days after the receipt of notification of a law enforcement hold from the towing and storage firm, whichever is later, seek a review to determine whether the unattended vehicle, abandoned vehicle, disabled vehicle, or inoperative vehicle was wrongfully removed or withheld from the owner through the following procedures:

(A) In the case of a vehicle removed by or at the direction of a state agency, by filing a petition with the Arkansas State Claims Commission;

(B) In the case of a vehicle removed by or at the direction of a county or city agency and when the county or city has established an administrative review process, by filing a petition according to the established administrative review process; and

(C) In all other cases, including when the county or city has failed to establish an administrative review process, by filing a petition in the circuit court in the county where the unattended vehicle or abandoned vehicle is stored.

(2) In the case of a final decision reached through a county or city administrative review, the owner or lienholder may appeal an adverse ruling to the circuit court in the county where the unattended vehicle or abandoned vehicle is stored.

(3) The petition shall name the state agency ordering the tow as a respondent and, when filed in circuit court, shall also name the towing company among the respondents if the towing company still possesses the vehicle. In the case of removal originated by an agency of a political subdivision of the state, the petition shall name the county, city, or town as a respondent.

(4) If the vehicle, its contents, or both are subject to impoundment or seizure by law enforcement under the Arkansas Rules of Criminal Procedure or a court order, the procedure for return or restoration of the impounded or seized vehicle and its contents shall be governed exclusively by Rule 15 of the Arkansas Rules of Criminal Procedure to the extent applicable.

(f)(1) Upon the filing of the petition, the owner or lienholder may have the unattended or abandoned vehicle and contents released upon posting with the commission, with the court, or with the city or county clerk or other person designated by a political subdivision, as the case

may be, a cash or surety bond equal to the amount of the charges for the towing and storage to ensure the payment of such charges in the event that he or she does not prevail.

(2)(A) Upon the posting of the bond and the payment of the applicable fees, the administrative decision maker, commission, or court, as the case may be, shall issue an order notifying the towing company and the respondent agency of the posting of the bond.

(B) Upon service of receipt of the order, the towing company shall release the stored property.

(3) At the time of release, after reasonable inspection, the owner or the lienholder shall give a receipt to the towing and storage firm reciting any claim for known loss or damage to the unattended or abandoned property or the contents thereof.

(g) Upon determining the respective rights of the parties, the final order of the administrative decision maker, commission, or court, as the case may be, shall provide for immediate payment in full of the reasonable recovery, towing, and storage fees by the owner or lienholder of the unattended or abandoned property or by the respective law enforcement agency.

(h) In cases where the owner or lienholder has posted a cash or surety bond to obtain immediate release and the owner or lienholder is found to be responsible for reasonable recovery, towing, and storage fees, the administrative decision maker, commission, or court, as the case may be, shall declare the bond to be forfeited, with the amount paid to the towing and storage firm to cover reasonable recovery, towing, and storage fees.

(i) Nothing in this section shall be construed to waive the sovereign immunity of the State of Arkansas nor any immunity granted to its political subdivisions.

(j) This section shall not be construed to defeat a lien held by a towing company under § 27-50-1208.

History. Acts 1993, No. 1000, § 4; 1995, No. 815, § 1; 1997, No. 392, § 3; 2001, No. 1830, § 4; 2005, No. 1878, § 6; 2007, No. 1053, §§ 8-10; 2011, No. 995, § 1; 2011, No. 1025, §§ 5-8.

27-50-1208. Possessory lien and notice to owners and lienholders.

(a)(1) The towing and storage firm shall have a first priority possessory lien on the vehicle and its contents for all reasonable charges for towing, recovery, and storage for which the owner is liable.

(2)(A) A possessory lien under this section attaches to not only the vehicle and its contents but also any trailer attached to the vehicle at the time it is towed and any contents of such trailer including, but not limited to, other vehicles or boats.

(B) A lien under this section shall not extend to the following items, without limitation:

(i) Personal or legal documents;

(ii) Medications;
(iii) Child-restraint seating;
(iv) Wallets or purses and the contents of such;
(v) Prescription eyeglasses;
(vi) Prosthetics;
(vii) Cell phones;
(viii) Photographs; and
(ix) Books.

(C) The items described in subdivision (a)(2)(B) of this section shall be released without charge by the towing and storage firm to the owner or operator of the motor vehicle or his or her duly authorized representative.

(b) The lien shall be perfected by:

(1) Maintaining possession;

(2) Mailing notice to the owner or owners and lienholders as shown on the data provided by the law enforcement agency involved as prescribed by this subchapter; or

(3) In the case of a vehicle removed pursuant to § 27-50-1101, giving notice to the last known registered owner or owners and lienholders as provided from the records of the:

(A) Office of Motor Vehicle;

(B) Arkansas Crime Information Center; or

(C) If known, motor vehicle records of any other state where the vehicle's registration indicates the name and address of the last registered owner and the name and address of the holder of any recorded lien, if any, on the vehicle.

(c)(1) The notice shall be mandatory and by certified mail, return receipt requested.

(2) The notice shall be posted not sooner than two (2) business days but within eight (8) business days after the date that the towing and storage firm receives the vehicle.

(d)(1) If within forty-eight (48) hours the ownership and lienholder information has not been received from the law enforcement agency requesting the removal of a vehicle pursuant to this subchapter, the towing and storage firm shall obtain information concerning the last known registered owner or owners and lienholder or lienholders as provided from the records of the:

(A) Office of Motor Vehicle;

(B) Arkansas Crime Information Center; or

(C) If known, motor vehicle records of any other state where the vehicle's registration indicates the name and address of the last registered owner and the name and address of the holder of any recorded lien, if any, on the vehicle.

(2)(A) For the purpose of notices required by this section, if the data records of the Office of Motor Vehicle or the office of motor vehicles for the state where the vehicle is registered, if known, do not contain any information as to the last known registered owner or owners and lienholder or lienholders, notice is sufficient under this section if the

notice is provided by publication one (1) time in one (1) newspaper of general circulation in the county where the vehicle was found unattended, abandoned, or improperly parked and by posting on the website sponsored and managed by the Arkansas Towing and Recovery Board for that purpose.

(B)(i) The notice by publication may contain multiple listings of vehicles, shall be published within the time requirements prescribed for notice by certified mail, and shall have the same contents required for a notice by certified mail.

(ii) A towing business using the website to post notice under subdivision (d)(2)(A) of this section shall:

(a) Be licensed by the board under § 27-50-1203; and

(b) Pay a reasonable fee for each notice posted on the website in an amount to be determined by the board.

(e)(1) The notice shall contain the following information:

(A) The year, make, model, and vehicle identification number of the vehicle towed;

(B) The name, address, and telephone number of the storage facility;

(C) That the vehicle is in the possession of that towing and storage firm under police order, describing the general circumstances of any law enforcement or other official hold on the vehicle;

(D) That towing, storage, and administrative costs are accruing as a legal liability of the owner;

(E) That the towing and storage firm claims a first priority possessory lien on the vehicle and its contents for all such charges;

(F) That unless claimed within forty-five (45) days, the vehicle and its contents will be dismantled, destroyed, or sold at public sale to the highest bidder;

(G) That the failure to exercise the right to reclaim the vehicle and its contents within the time prescribed by this section constitutes a waiver by the owner and lienholder of all right, title, and interest in the vehicle and its contents and constitutes consent to the sale, dismantling, or destruction of the vehicle and its contents;

(H) That the owner or lienholder may retake possession at any time during business hours by appearing, proving ownership, and releasing the law enforcement or other official hold, if any, and by paying all charges or by other written arrangement between the owner or lienholder and the towing and storage firm;

(I) That should the owner consider that the original taking was not legally justified, he or she has a right for thirty (30) days to contest the original taking as described by § 27-50-1207; and

(J) That the owner of the vehicle or operator or his or her authorized representative may recover without charge any item described in subdivision (a)(2)(B) of this section by providing within forty-five (45) days to the towing and storage firm proof that the claimant is the registered owner of the vehicle or has been authorized by the registered owner of the vehicle to take possession of the items.

(2) A notice to an owner of a vehicle deemed abandoned on the premises of an automobile repair facility under § 27-50-1101 shall also advise that the automobile repair person holds an absolute lien on the vehicle under § 18-45-201 et seq.

(f) Nothing in this section is to preclude the owner, lienholder, or agent from making alternative arrangements within the two-day to eight-day period with the towing and storage firm, waiving his or her rights to the notice requirement.

(g) When any vehicle reclaimed from the towing and storage firm by a lienholder contains contents not subject to the lienholder's interest, the lienholder shall be accountable to the owner of the contents in the same manner as the lienholder would in any other case of repossession of a vehicle, and the towing and recovery firm releasing the vehicle and its contents shall be relieved from all responsibility for the contents.

(h)(1) A towing and storage firm that in good faith follows the procedures of this subchapter or the provisions of § 27-50-1101 shall not be subject to claims of unlawful detainer or conversion for vehicles or their contents for maintaining property pursuant to the possessory lien as provided by this subchapter.

(2) A challenge to the removal and holding of an unattended vehicle, abandoned vehicle, or impounded or seized vehicle as provided by this subchapter shall be controlled exclusively by the provisions of § 27-50-1207.

(3) This section shall not be construed to limit liability of the towing and storage firm for any other act or omission otherwise actionable under statutory or common law.

History. Acts 1993, No. 1000, § 7; 1997, No. 392, § 4; 1997, No. 841, § 3; 1999, No. 1279, § 5; 2001, No. 1830, § 5; 2005, No. 1878, § 7; 2005, No. 2211, § 3; 2007, No. 506, §§ 1, 2; 2007, No. 861, §§ 7, 8; 2007, No. 1053, § 11; 2009, No. 483, § 4; 2011, No. 1025, § 9; 2021, No. 794, § 3.

Amendments. The 2021 amendment, in (d)(2)(A), inserted "is sufficient under this section if the notice is provided", deleted "is sufficient notice under this section" following "improperly parked", and added "and by posting on the website sponsored and managed by the Arkansas Towing and Recovery Board for that purpose"; and added (d)(2)(B)(ii).

27-50-1209. Foreclosure of liens.

(a)(1) The failure of the owner or lienholder to exercise his, her, or its right to reclaim the vehicle and its contents within forty-five (45) days of the posting or publication of notice to owners and lienholders constitutes a waiver by the owner or lienholder of all right, title, and interest in the vehicle and its contents.

(2) If a law enforcement official or other official refuses to release any hold on the vehicle or its contents, the owner or lienholder has an additional twenty (20) days to reclaim the vehicle and its contents after the date when the hold is released.

(3)(A) The owner or lienholder may challenge any law enforcement official hold or other official hold under the procedures in § 27-50-1207(e).

(B) However, the provisions of § 27-50-1207(f) pertaining to release of the vehicle do not apply when the owner or lienholder challenges a law enforcement official hold or other official hold.

(b)(1) Except as provided in subsection (c) of this section, the towing and storage firm, municipality, or county that holds a perfected possessory lien on any vehicle and its contents not redeemed by its owner or security lienholder within the time frame provided by this section shall sell the vehicle and its contents at a nonjudicial public sale for cash.

(2) The sale shall not occur later than ninety (90) days after perfection of the lien or forty-five (45) days after the release of any law enforcement hold or other official hold, whichever is later.

(c) A vehicle that is held by a municipality or county on a storage lot owned and operated by the municipality or county may defer the public sale and make use of the vehicle for law enforcement purposes if:

(1) The municipality or county complies with the notice provisions of § 27-50-1208;

(2) The time frame as provided under subsection (a) of this section has expired; and

(3) The municipality or county enacts an ordinance that:

(A) Declares the municipality's or the county's policy regarding the deferral for law enforcement purposes;

(B) Charges a specific municipal or county official with the responsibilities of:

(i) Identifying the vehicles to be used by the municipality or county; and

(ii)*(a)* Declaring a future date to publicly sell the vehicle pursuant to § 27-50-1210.

(b) The date of the sale shall be a maximum of six (6) months following the passage of the time frame for an owner or lienholder to reclaim a vehicle under subsection (a) of this section or as soon as is practicable if circumstances arise that prevent the sale on the declared sale date; and

(C) Requires that the official ensure that the public sale proceed on the sale date declared in the ordinance.

(d)(1) The towing and storage firm, municipality, or county shall obtain written verification that the Arkansas Crime Information Center records do not list the vehicle as having been reported stolen.

(2) The verification shall be on a form prescribed by the center, the Office of Motor Vehicle of the Department of Finance and Administration, a municipal police department, a county sheriff's department, or the Division of Arkansas State Police.

(3) When the verification provided by this subsection is sought directly from the center by the towing and storage firm, the center may charge a fee, not to exceed ten dollars ($10.00) per vehicle verification.

(e)(1) Notice of the sale shall be sent at least fifteen (15) days before the date of the sale by certified mail, no return receipt requested, to the registered owner and lienholder, if any.

(2) If the data records of the Office of Motor Vehicle or the office of motor vehicles for the state where the vehicle is registered do not contain any information as to the last known registered owner or owners or lienholders, the notice required under subdivision (e)(1) of this section is not required.

(3) Nothing in this subsection removes the requirement of notice of sale by publication under subsection (f) of this section.

(f) In addition to the notice by mail, notice of the sale shall be published in a newspaper of general circulation in the county at least one (1) time at least ten (10) days prior to the sale and shall be posted on the website that is sponsored and managed by the Arkansas Towing and Recovery Board for that purpose.

History. Acts 2001, No. 1830, § 6; 2005, No. 1878, § 8; 2005, No. 2189, § 1; 2005, No. 2211, § 4; 2007, No. 506, § 3; 2007, No. 1053, § 12; 2021, No. 794, § 4.

Amendments. The 2021 amendment added "and shall be posted on the website that is sponsored and managed by the Arkansas Towing and Recovery Board for that purpose" in (f).

27-50-1210. Nonjudicial public sale.

(a) After complying with the requirements of foreclosure of liens provided by this subchapter, ownership of the vehicle and its contents shall thereupon vest in the purchaser free of all liens of any nature. Should the nonjudicial public sale produce more funds than the sum of all charges, including the costs of the sale and including a reasonable charge for processing the paperwork, the excess shall be paid as follows:

(1)(A) If the vehicle was removed to an impound lot at the request of a law enforcement agency as authorized by this subchapter, the excess shall be maintained for a period of one (1) year by the entity that operates the impound lot.

(B) If the excess is not claimed during this period by the person legally entitled thereto, the moneys shall be paid to the entity operating the impound lot; or

(2)(A) If the vehicle was removed to a private impound lot under § 27-50-1101, the excess shall be paid to the county clerk to the account of the person legally entitled to the excess.

(B) The Unclaimed Property Act, § 18-28-201 et seq., shall apply to any unclaimed funds or excess moneys that have been paid to the county clerk.

(b) Should the sale produce the same or less than the sum of all charges:

(1) At the election of the possessory lienholder, the sale of the vehicle may be cancelled and ownership of the vehicle and its contents shall thereupon vest in the possessory lienholder as purchaser free of all liens of any nature; and

(2) The possessory lienholder shall have a valid claim against the owner for the full amount of the charges, including the costs of the sale and including a reasonable charge for processing the paperwork, less the sale price of the vehicle and its contents.

(c)(1) Upon presentation of documentation to the Office of Motor Vehicle to the effect that the sale procedure provided in this subsection has been complied with protecting the rights of the owner or lienholder, the purchaser of the vehicle shall be entitled to receive a new title to the vehicle upon meeting other applicable administrative requirements of title and registration laws.

(2) The towing and storage firm shall execute an affidavit stating that the vehicle has been towed and stored as an unattended or abandoned vehicle and that notice has been given as required in this subchapter to the registered owners and all lienholders of record.

(3) The affidavit shall describe the vehicle by make, year, model, and vehicle identification number.

History. Acts 1993, No. 1000, § 9; 1997, No. 841, § 4; 2001, No. 1820, § 1; 2001, No. 1830, § 7; 2005, No. 1878, § 9; 2005, No. 2211, § 5; 2007, No. 1053, § 13; 2011, No. 872, § 1.

27-50-1212. Criminal penalties.

(a) It shall be unlawful for a person to:

(1) Operate a tow vehicle in violation of this subchapter;

(2) Operate a tow vehicle without obtaining a tow vehicle safety permit as required by the rules of the Arkansas Towing and Recovery Board;

(3) Operate a business engaging in nonconsent towing of vehicles without first obtaining the proper tow business license as required by the rules of the board;

(4) Give false or forged evidence to the board or to any member or an employee thereof for the purpose of obtaining a license or a tow vehicle safety permit;

(5) Use or attempt to use an expired, suspended, or revoked license or tow vehicle safety permit; or

(6) Violate or aid or abet any violation of this subchapter.

(b) The Division of Arkansas State Police, the Arkansas Highway Police Division of the Arkansas Department of Transportation, and county and municipal authorities may enforce § 27-50-1101 et seq. and this subchapter.

(c) A person who pleads guilty or nolo contendere to or is found guilty of any violation under this section shall be guilty of a misdemeanor and shall be sentenced to pay a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or to be imprisoned for a period not exceeding ninety (90) days, or both.

(d) The fines imposed and collected under this section shall be remitted as follows:

(1) Fifty percent (50%) to the Administration of Justice Funds Section of the Office of Administrative Services of the Department of

Finance and Administration by the tenth day of each month on a form provided by that office for deposit into the Arkansas Towing and Recovery Board treasury fund; and

(2) Fifty percent (50%) to the law enforcement agency issuing the violation.

(e) Each day of an unlawful practice proscribed by this section shall constitute a distinct and separate offense.

History. Acts 1997, No. 392, § 5; 2005, No. 2211, § 6; 2007, No. 861, § 9; 2009, No. 644, § 1; 2017, No. 707, § 345.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (b).

27-50-1216. Moving a total-loss vehicle from a storage facility — Definition.

(a) As used in this section, "storage facility" means a facility where a wrecked or inoperable vehicle is stored that charges storage fees to a vehicle owner as a result of the claim from the wrecked or inoperable vehicle.

(b)(1)(A) If an insurance company determines that a vehicle is a total loss claim, the insurance company may authorize its agent to move the vehicle to a location of its choosing without:

(i) The approval of the storage facility; and

(ii) A release document from the owner.

(B) Instead of a release document, the insurance company shall obtain a verbal release from the vehicle owner to move the total loss vehicle as provided under this section and document the verbal release in the claim file.

(2)(A) To authorize the moving of the vehicle, the insurance company shall submit notice by regular mail, hand-delivery, facsimile, or electronic transmission to the storage facility on company letterhead of the intent to move the vehicle.

(B) The notice shall include:

(i) A description of the vehicle, including its identification number;

(ii) The identification of the agent who is to move the vehicle;

(iii) The date the owner of the vehicle authorized release of the vehicle to the insurance company; and

(iv) A statement that the insurance company will indemnify and hold harmless the storage facility for all liability and costs it incurs defending itself in any civil or criminal claim arising from moving the vehicle without a release document from the owner.

(C) The owner and any lienholder of the vehicle shall receive a copy of the notice by regular mail.

(c) The storage facility shall make the vehicle available for immediate release and removal during regular business hours of the storage facility upon receipt of:

(1) The letter described under subdivision (b)(2) of this section;

(2) The release of any law enforcement or other official hold; and

(3) Settlement of all fees incurred up to and including the date of removal.

(d)(1) If an insurance company or its agent moves a vehicle as provided under this section, the insurance company shall indemnify and hold harmless the storage facility for liability and all expenses associated with civil or criminal claims arising from moving the vehicle without a release document from the owner.

(2) In any action in which a storage facility prevails against an insurance company for indemnification under this subsection, in addition to any damages suffered, the storage facility shall be awarded attorney's fees and costs incurred.

(e) This section shall not be construed to restore or grant any right, title, or interest in the vehicle or its contents as may have been waived under § 27-50-1209(a).

History. Acts 2011, No. 1206, § 1.

27-50-1217. Reporting of towing rates.

(a) If a government entity implements a nonconsent towing rotation list, the government entity shall require each towing and storage firm that tows, removes, or stores vehicles in the government entity's jurisdiction to annually file a list of the towing and storage firm's current rates for services.

(b)(1) It is an unclassified violation if a towing and storage firm:

(A) Fails to file the list required under this section; and

(B) Engages in the towing, removal, or storage of a vehicle in the jurisdiction of the government entity with which it failed to file the list.

(2)(A) The first offense under subdivision (b)(1) of this section is punishable by a fine of one thousand dollars ($1,000).

(B) The second offense or subsequent offenses under subdivision (b)(1) of this section are punishable by a fine of two thousand dollars ($2,000).

History. Acts 2015, No. 387, § 1.

27-50-1218. Consumer complaint process.

(a)(1) When a consumer complaint against a towing company is filed with a law enforcement agency that administers a nonconsent written vehicle removal policy under § 27-50-1207(a)(1) against a towing company, the law enforcement agency shall submit the consumer complaint to the Arkansas Towing and Recovery Board within five (5) days of receipt of the complaint.

(2) The written consumer complaint shall include:

(A) The complainant's name and contact information;

(B) The towing company involved in the dispute;

(C) The nature of the consumer's complaint, including pertinent details that may show cause for filing a formal complaint against the towing company by the board; and

(D) The contact information for the on-scene officer who initiated the nonconsent removal of the vehicle related to the consumer complaint.

(b) To file a consumer complaint, the person shall have a vested interest in the vehicle, including without limitation the:

(1) Owner of the towed vehicle or his or her agent;

(2) Lien holder of the towed vehicle; or

(3) Company that insures the towed vehicle.

(c)(1) Upon receipt of the consumer complaint, the board shall resolve the consumer complaint within forty-five (45) calendar days after receiving the consumer complaint.

(2)(A) The complainant shall respond to a request from the board for additional information relevant to the consumer complaint within ten (10) business days after receiving the request.

(B) Failure to respond may result in the immediate dismissal of the complaint.

(C)(i) A complainant may file a written request for an extension of time with the board.

(ii) The written request for an extension shall be submitted to the board office within the ten (10) days after receiving the request for additional information under subdivision (c)(2)(A) of this section.

(iii) If the extension is granted, the board shall notify the towing company in writing of the extension.

(iv) The board may extend the period for the resolution of a complaint when conditions warrant this action.

(3)(A) The towing company shall respond to a request from the board for additional information relevant to the consumer complaint within ten (10) business days after receiving the request.

(B) Failure to respond to a request by a towing company shall result in a daily fine of up to twenty-five dollars ($25.00) per day until the information requested is received by the board.

(C)(i) The towing company may file a written request for an extension of time with the board.

(ii) The written request for an extension shall be submitted to the board office within the ten (10) days after receiving the request for additional information under subdivision (c)(3)(A) of this section.

(iii) If the extension is granted, the board shall notify the towing company in writing of the extension.

(iv) The board may extend the period for the resolution of a complaint when conditions warrant this action.

(d)(1) Financial restitution to the complainant shall be considered as a part of the penalty by the board when a towing company or tow owner is found to have violated provisions of the rules promulgated by the board.

(2) Only actual losses that have been incurred by the complainant may be paid as restitution.

(3) A payment of financial restitution to the complainant shall be determined by the board.

(4) Punitive damages shall not be paid to the complainant.

(5) This section does not preclude the complainant's right to sue in a court of law as an alternative.

History. Acts 2015, No. 1117, § 1; 2019, No. 315, § 3154.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (d)(1).

27-50-1219. Suspension from law enforcement nonconsent rotation list.

(a)(1) The Arkansas Towing and Recovery Board shall promulgate rules to establish a complaint process for the removal or suspension of a towing company from the nonconsent rotation list or imposition of fines for violation of a recognized nonconsent rotation policy upon receiving a request from a law enforcement agency.

(2) The board shall consider the following in making the determination to remove or suspend a towing company from the nonconsent rotation list:

(A) Whether the law enforcement agency's nonconsent rotation policy is reasonable; and

(B) The severity of the violation.

(3) The board may issues fines in addition to removal or suspension of a towing company from the nonconsent rotation list.

(4)(A) A towing company may be suspended from the nonconsent rotation list for a first-time violation of the law enforcement agency's policy for up to fifteen (15) days.

(B)(i) A second offense may result in a suspension of up to thirty (30) days by the law enforcement agency.

(ii) The law enforcement agency may request a hearing before the board for additional sanctions which may include a longer period of suspension from the nonconsent rotation list and a fine.

(C) A third offense may result in a suspension of a towing company from the nonconsent rotation list for up to one (1) year and a fine.

(b)(1) Except as provided under subdivision (b)(3) of this section, law enforcement shall establish a nonconsent rotation policy.

(2) An adopted nonconsent rotation policy shall be reasonable and reflect the day-to-day operations of a towing company in the immediate area.

(3) A law enforcement agency is not required to establish a nonconsent rotation policy required by subdivision (b)(1) of this section if:

(A) The law enforcement agency has an existing nonconsent rotation policy or nonconsent towing service contract in place; and

(B) The provisions of this section would have a negative impact on the law enforcement agency or nonconsent towing service contract.

(4) A law enforcement agency shall provide each towing company that participates in the nonconsent rotation with a copy of the policy

and each towing company operator shall acknowledge in writing that he or she has received a copy of the policy.

(c)(1) A towing company participating in a nonconsent rotation policy administered by law enforcement shall be licensed and permitted by the board.

(2) Failure to properly license or renew with the board shall result in an immediate suspension until all permits are obtained.

(3) In addition to any law enforcement nonconsent rotation policy, a tow operator shall comply with all of the statutes and rules administered by the board.

(d) Following a suspension period of six (6) months or longer a towing company must reapply for a position on the nonconsent rotation list.

(e) Nothing in this act or rule adopted by the board shall be construed to prohibit a law enforcement agency, city, or county from:

(1) Enforcing any local nonconsent towing policies, rules, ordinances, or contracts;

(2) Removing a towing company from the local towing rotation list; or

(3) Assessing a fine, penalty, or other remedy available by law or under its contracts or policies.

History. Acts 2015, No. 1224, § 1.

Meaning of "this act". Acts 2015, No. 1224, codified as §§ 27-50-1219, 27-50-1220.

27-50-1220. Authority to issue citations.

(a)(1) An investigator employed by the Arkansas Towing and Recovery Board and the Director of the Arkansas Towing and Recovery Board may issue citations to a towing company, owner-operator, or tow vehicle driver for certain violations found in this subchapter.

(2) Citations may be issued for the following offenses:

(A) Operating a tow vehicle without a proper permit or license;

(B) Operating a tow vehicle that has not been permitted or licensed as a tow vehicle by the State of Arkansas;

(C) Operating a tow vehicle that is out of compliance with the safety and operating rules prescribed by the board;

(D) Not responding within a prescribed timeframe to a request for information related to a consumer complaint;

(E) Failure to properly post any required notifications in a conspicuous place as required by the board; or

(F) Failure to meet the basic criteria for an adequate place of business.

(b)(1) The fines accessed for a violation of this section shall be set by the board.

(2) Each fine for an individual violation should reflect the severity of the penalty and may be increased for multiple offenses or repeated violations of the same offense.

(3) Each fine for an individual violation set by the board shall not exceed two hundred dollars ($200).

History. Acts 2015, No. 1224, § 2; 2019, No. 315, § 3155.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (a)(2)(C).

27-50-1221. Owner preference complaint.

A complaint concerning a violation of this subchapter in conjunction with owner preference and consent towing or nonconsent towing may be filed with the Arkansas Towing and Recovery Board as authorized under § 27-50-1203 by:

(1) A vehicle owner;

(2) A lien holder;

(3) An insurance provider; or

(4) A law enforcement officer.

History. Acts 2017, No. 953, § 6.

27-50-1222. Nonconsent towing rotation — Heavy-duty motor vehicles — Definitions.

(a) A tow facility may participate in a law enforcement program for the rotation of towing and recovery services for unattended heavy-duty motor vehicles if:

(1) The tow facility:

(A) Is licensed by the Arkansas Towing and Recovery Board as a heavy-duty motor vehicle incident management tow facility;

(B) Is current in safety inspections by the Arkansas Highway Police Division of the Arkansas Department of Transportation under the North American Standard Level I Inspection Procedure of the Commercial Vehicle Safety Alliance; and

(C) Complies with all other applicable state and federal laws;

(2) The tow facility:

(A) Owns or has access to the equipment necessary to properly execute the recovery of a heavy-duty motor vehicle and clean-up of a major accident; and

(B) Has at least one (1) owner, partner, or employee who has proof of:

(i) Training through a nationally recognized towing and recovery program in traffic incident management or on-scene recovery techniques; or

(ii) Five (5) or more years of experience in the towing and recovery of heavy-duty motor vehicles; and

(3) Each tow facility owner, partner, and employee has completed four (4) hours of Traffic Incident Management Training through a program required by the board.

(b) However, a licensed tow facility or tow business that is not licensed as a heavy-duty motor vehicle incident management tow facility may be called upon by a law enforcement agency to assist in the towing and recovery of a heavy-duty motor vehicle:

(1) If the response time to the unattended vehicle is of the essence; and

(2) A heavy-duty motor vehicle incident management tow facility is not available in the local area.

(c) The board may adopt rules to implement this section.

(d) As used in this section, "heavy-duty" means having a gross weight of at least thirty-two thousand pounds (32,000 lbs.).

History. Acts 2019, No. 1063, § 1.

Effective Dates. Acts 2019, No. 1063, § 3: Jan. 1, 2020. Effective date clause provided: "Section 1 of this act is effective on and after January 1, 2020."

27-50-1223. Removal of unattended vehicles — Liability.

(a) The Division of Arkansas State Police, acting alone or in conjunction with another public safety agency, may, without the consent of the operator or a passenger, remove:

(1) An unattended vehicle;

(2) The spilled contents or cargo of an unattended vehicle; or

(3) Motor vehicle cargo or personal property that the Arkansas Department of Transportation, the Division of Emergency Management, or the first responders on the scene of a motor vehicle accident believe is a hazardous material, hazardous waste, or regulated substance under state law or the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.

(b) The owner, the operator, or a passenger shall be liable for the costs to a state agency for the removal of the unattended vehicle, motor vehicle cargo, or personal property.

(c) If acting in good faith and using reasonable care, a tow company, emergency medical services provider, or local law enforcement shall not be held responsible for any damages or claims that may result from the performance of a duty or the removal of an unattended vehicle, motor vehicle cargo, or personal property authorized under subsection (a) of this section.

History. Acts 2019, No. 1063, § 2.

CHAPTER 51

OPERATION OF VEHICLES — RULES OF THE ROAD

SUBCHAPTER.

1. General Provisions.
2. Speed Limits.
3. Driving, Overtaking, and Passing.
7. Railroad Grade Crossings.
9. Emergency Vehicles.
10. School Buses.
13. Stopping, Standing, or Parking.
14. Miscellaneous Rules.
15. Paul's Law: To Prohibit Drivers From Using a Wireless Telecommunications Device While Operating a Motor Vehicle.

SUBCHAPTER.
16. FEWER DISTRACTIONS MEAN SAFER DRIVING ACT.
17. ELECTRIC BICYCLE ACT.
18. BICYCLES.
19. ELECTRIC MOTORIZED SCOOTER ACT.
20. AUTONOMOUS VEHICLES.
21. PERSONAL DELIVERY DEVICE.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.
27-51-102. Penalties generally — Disposition of fines.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

27-51-102. Penalties generally — Disposition of fines.

(a) Any person violating the provisions of this act shall, except as otherwise provided in this act, upon conviction be fined as provided by the provisions of this act.

(b)(1) Any offender who shall have been found guilty of any violation of any section of this act and fined and who shall within six (6) months thereafter be convicted of a second violation of such section may be fined in a sum not exceeding double the penalty provided for in this act for a first violation. In addition thereto, he or she may have his or her certificate or license issued by the Secretary of the Department of Finance and Administration revoked for a period not exceeding sixty (60) days.

(2) For a third or subsequent violation of a section within six (6) months after the date of such violation, the certificate or license may in addition to the fine provided for the second offense be revoked for a period not exceeding six (6) months.

(c) Any person whose license shall have been revoked for a violation of any of the provisions of this act and who shall drive or operate a motor vehicle within the State of Arkansas during the period for which his or her license shall have been revoked, or any person who having once been convicted of a failure to comply with the provisions requiring the registration by chauffeurs shall fail or refuse to comply with these

provisions shall be deemed guilty of a misdemeanor and upon conviction may be fined in a sum not to exceed two hundred dollars ($200) or imprisoned in the county jail for a period not exceeding thirty (30) days, or both, at the discretion of the court.

(d) All fines imposed for the violation of any of the provisions of this act shall be collected and disbursed under § 16-13-709.

History. Acts 1911, No. 134, § 19, p. 94; C. & M. Dig., § 7435; Pope's Dig., § 6647; A.S.A. 1947, § 75-663; Acts 2011, No. 1218, § 14; 2019, No. 910, § 4814.

Amendments. The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in the last sentence of (b)(1).

27-51-104. Careless and prohibited driving.

CASE NOTES

Motion to Suppress.

Defendant's motion to suppress was properly denied because, inter alia, an officer had probable cause to stop defendant for failure to maintain proper control for crossing the fog line. Pokatilov v. State, 2017 Ark. 264, 526 S.W.3d 849 (2017).

Subchapter 2 — Speed Limits

SECTION.
27-51-201. Limitations generally — Definition.
27-51-202. Restrictions not applicable to emergency vehicles — Definition.
27-51-203. [Repealed.]
27-51-204. Maximum speed limits — Exceptions.
27-51-207. Assistance to local authorities in determining limits.
27-51-210. Towing of manufactured homes and mobile homes.
27-51-213. Erection and maintenance of required signs in school zones.
27-51-215. [Repealed.]
27-51-217. Additional fine for moving violations committed in presence of minor.

Effective Dates. Acts 2019, No. 784, § 3: July 1, 2020.

27-51-201. Limitations generally — Definition.

(a)(1) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing.

(2) In every event, speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(b)(1)(A) The maximum speed limit for a motor vehicle operated on a controlled-access highway is seventy-five miles per hour (75 m.p.h.) if the controlled-access highway:

(i) Is located outside an urban area; and

(ii) Has at least four (4) lanes that are divided by a median strip.

(B) The maximum speed limit for a commercial motor vehicle operated on a controlled-access highway described in subdivision (b)(1)(A) of this section is seventy miles per hour (70 m.p.h.).

(2) The Arkansas Department of Transportation shall erect the appropriate signs giving notice of the maximum speed limit provided in subdivision (b)(1)(A) of this section along the controlled-access highway.

(3) Upon an engineering and traffic investigation, the State Highway Commission may decrease the maximum speed limit on a controlled-access highway from the speed limit provided by subdivision (b)(1) of this section.

(c) On all facilities other than controlled-access highways under subdivision (b)(1) of this section, except when a special hazard exists that requires lower speed for compliance with subsection (a) of this section, the limits specified in this section or established as authorized shall be maximum lawful speeds, and a person shall not drive a vehicle on a highway at a speed in excess of:

(1) Thirty miles per hour (30 m.p.h.) in any urban district;

(2) Fifty miles per hour (50 m.p.h.) for trucks of one-and-one-half-ton capacity or more in other locations;

(3) Sixty-five miles per hour (65 m.p.h.) on a controlled-access highway in an urban area; and

(4) A motor vehicle which is overwidth, overlength, or overheight or the gross load of which is in excess of sixty-four thousand pounds (64,000 lbs.) excluding the front axle, even if operated under a special permit, shall not be operated in excess of thirty miles per hour (30 m.p.h.).

(d) Consistent with the requirements of subsection (a) of this section, the driver of every vehicle shall drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching the crest of a hill, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(e) In every charge of violation of this section, the complaint and the summons or notice to appear shall specify the speed at which the defendant is alleged to have driven and the prima facie speed applicable within the district or location.

(f) No person shall operate any motor-driven cycle at any time mentioned in § 27-36-204(a) at a speed greater than thirty-five miles per hour (35 m.p.h.) unless such motor-driven cycle is equipped with a headlamp or headlamps which are adequate to reveal a person or vehicle at a distance of three hundred feet (300') ahead.

(g) The provisions of this section shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence upon the part of the defendant as the proximate cause of the accident.

(h) As used in this section, "commercial motor vehicle" means any motor vehicle used in commerce to transport passengers or property when the vehicle or vehicle combination has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of twenty-six thousand one pounds (26,001 lbs.) or more.

History. Acts 1937, No. 300, § 51; Pope's Dig., § 6709; Acts 1939, No. 179, § 1; 1959, No. 307, § 33; 1963, No. 557, §§ 1, 2; A.S.A. 1947, § 75-601; Acts 2017, No. 1097, § 1; 2019, No. 784, §§ 1, 2.

Amendments. The 2017 amendment rewrote (b); in (c)(3), substituted "Sixty-five miles per hour (65 m.p.h.)" for "Sixty miles per hour (60 m.p.h.)" and inserted "motor"; and made stylistic changes.

The 2019 amendment rewrote (b); inserted "under subdivision (b)(1) of this section" in the introductory language of (c); substituted "on a controlled-access highway in an urban area" for "for other motor vehicles in other locations" in (c)(3); and added (h).

Effective Dates. Acts 2019, No. 784, § 3: July 1, 2020.

CASE NOTES

Negligence.

New trial was not required because the jury could reasonably have found that regardless of the plaintiff driver's speed, the defendant company was wholly responsible for the accident since its employee turned in front of the driver; even if the plaintiff driver violated subsection (d) of this section when approaching the railway crossing, violation of a statute was not necessarily negligence but only evidence of negligence to be considered with all other facts and circumstances of the case, as the jury was instructed. Razorback Cab of Fort Smith, Inc. v. Amon, 2016 Ark. App. 352, 498 S.W.3d 346 (2016).

27-51-202. Restrictions not applicable to emergency vehicles — Definition.

(a)(1) The prima facie speed limitations under this subchapter do not apply to authorized emergency vehicles responding to emergency calls when the driver of the emergency vehicle is operating the vehicle's emergency lights and is also operating an audible signal by bell, siren, or exhaust whistle if other vehicles are present.

(2) The driver of an authorized emergency vehicle operated as a police vehicle is not required to operate a siren or flashing lights when operating the emergency vehicle as authorized under § 27-51-906.

(b) This section does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the street, nor shall it protect the driver of any emergency vehicle from the consequence of a reckless disregard of the safety of others.

(c) For purposes of this section, "emergency calls" means legitimate emergency situations which call for the operation of an emergency vehicle.

History. Acts 1937, No. 300, § 55; Pope's Dig., § 6713; A.S.A. 1947, § 75-606; Acts 2001, No. 332, § 1; 2001, No. 1415, § 1; 2017, No. 793, § 3.

Amendments. The 2017 amendment redesignated former (a) as (a)(1); added (a)(2); deleted "including a police vehicle" at the end of (c); and made stylistic changes.

27-51-203. [Repealed.]

Publisher's Notes. This section, concerning authority to establish limits, was repealed by Acts 2017, No. 1097, § 2. The section was derived from Acts 1971, No. 61, § 1; A.S.A. 1947, § 75-601.1.

27-51-204. Maximum speed limits — Exceptions.

(a) The maximum speed limits posted under § 27-51-201 shall apply to all vehicles using the facility except authorized emergency vehicles on emergency trips, such as police vehicles on duty, fire vehicles on calls, and ambulances; oversize/overweight vehicles moving under special permit issued by the Arkansas Department of Transportation or its lawfully delegated agents; and other specific vehicles for which special limits may be posted in particular situations or under particular conditions.

(b) This exemption shall not relieve any driver of an authorized emergency vehicle from his or her lawful responsibility to drive with due regard for the safety of all persons upon or using the highway facility, nor shall it protect the operator of any such vehicle from the consequence of a reckless disregard for the safety of others.

History. Acts 1971, No. 61, § 2; A.S.A. 1947, § 75-601.2; Acts 2017, No. 707, § 346; 2017, No. 1097, § 3.

Amendments. The 2017 amendment by No. 707 substituted "Department of Transportation" for "State Highway and Transportation Department" in (b)(1) [now (a)].

The 2017 amendment by No. 1097 deleted "and minimum" preceding "speed limits" in the section heading; deleted former (a)(1) and (a)(2); redesignated former (b)(1) and (b)(2) as (a) and (b); in (a), deleted "and minimum" preceding "speed limits" and inserted "under § 27-51-201"; and inserted "or her" in (b).

27-51-207. Assistance to local authorities in determining limits.

Local authorities may request professional assistance of the Arkansas Department of Transportation in determining reasonable and prudent maximum and minimum speeds for arterial highways, roads, and streets not on the state highway system in their respective jurisdictions.

History. Acts 1971, No. 61, § 4; A.S.A. 1947, § 75-601.4; Acts 2017, No. 707, § 347.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department".

27-51-210. Towing of manufactured homes and mobile homes.

(a) No person shall drive a vehicle that is towing a manufactured home or mobile home at a speed greater than fifty-five miles per hour (55 m.p.h.).

(b) On roads upon which the posted speed limit is less than fifty-five miles per hour (55 m.p.h.), the posted speed limit shall be observed.

(c) The Arkansas Department of Transportation may set minimum and maximum speed limits different from those posted or may set a speed limit less than the maximum provided in subsections (a) and (b) of this section for a vehicle towing a manufactured home or mobile home by noting any speed restriction on the oversize load permit issued by the department to that vehicle.

History. Acts 1937, No. 300, § 54; 1959, No. 307, § 35; A.S.A. 1947, § 75-605; Acts 2001, No. 1136, § 1; 2017, No. 707, § 348.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (c).

27-51-213. Erection and maintenance of required signs in school zones.

(a)(1) A school zone shall include a distance of three hundred feet (300') on either side of a school building or school grounds and shall be posted with appropriate signs showing: "SCHOOL — 25 M.P.H. WHEN CHILDREN ARE PRESENT".

(2) At an appropriate distance before reaching this sign, a school advance sign shall be erected.

(3) A third sign at the end of the school zone shall designate the speed limit the motor vehicle may resume.

(b)(1)(A) It shall be the duty of the Arkansas Department of Transportation, county road department, city street department, or any other agency having the responsibility of maintaining the streets or roadways to erect the signs required by subsection (a) of this section unless a special traffic engineering study for a specific school zone produces other recommendations for that school zone.

(B) The maximum speed limit shall not be increased above the limitation provided in subsection (a) of this section.

(2) Signs shall be maintained and replaced using the same criteria that is used to maintain and replace "STOP" signs and other warning signs.

(3) All signs and signing locations will be in accordance with the regulations contained in the current Manual on Uniform Traffic Control Devices.

History. Acts 1977, No. 229, § 2; A.S.A. 1947, § 75-601.6; Acts 2017, No. 707, § 349.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (b)(1)(A).

27-51-215. [Repealed.]

Publisher's Notes. This section, concerning Arkansas Primary Highway Network study, was repealed by Acts 2011, No. 780, § 9. The section was derived from Acts 2007, No. 242, § 1.

27-51-217. Additional fine for moving violations committed in presence of minor.

(a) In addition to any other sentence resulting from a plea of guilty or nolo contendere or a finding of guilty to a traffic violation under this subchapter, the sentencing court shall assess an additional fine of five dollars ($5.00) for reckless driving, § 27-50-308, or for speeding in excess of twenty miles per hour (20 m.p.h.) over the posted speed limit if the finder of fact determines that the traffic violation was committed while a person under eighteen (18) years of age was a passenger in the motor vehicle.

(b) A fine assessed and collected under this section shall be remitted on or before the fifteenth day of the following month to the Arkansas Children's Advocacy Center Fund.

History. Acts 2017, No. 714, § 7.

Subchapter 3 — Driving, Overtaking, and Passing

SECTION.
27-51-301. Vehicles to be driven on right side of roadway — Exceptions.
27-51-305. Following too closely — Definition.
27-51-310. Passing authorized vehicle stopped on highway — Definition.

27-51-301. Vehicles to be driven on right side of roadway — Exceptions.

(a) Except as otherwise provided in this section, upon all roadways of sufficient width, a vehicle shall not be driven upon the left half of the roadway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing that movement;

(2) When the right half of a roadway is closed to traffic while under construction or repair;

(3) Upon a roadway divided into three (3) marked lanes for traffic under the rules applicable thereon;

(4) Upon a roadway designated and signposted for one-way traffic;

(5) When the right half of the roadway is in disrepair or is in an otherwise undrivable or unsafe condition; or

(6) When a vehicle is preparing to exit the roadway on the left.

(b) Except as otherwise provided in this section, a vehicle shall not be driven upon the left lane of a multilane highway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing that movement;

(2) When all other lanes for traveling in the same direction are closed to traffic while under construction or repair;

(3) When all other lanes for traveling in the same direction are in disrepair or are in an otherwise undrivable or unsafe condition; or

(4) When a vehicle is preparing to exit the multilane highway on the left.

History. Acts 1937, No. 300, § 56; Pope's Dig., § 6714; A.S.A. 1947, § 75-607; Acts 1997, No. 854, § 1; 2013, No. 965, § 1; 2017, No. 707, § 350; 2021, No. 1090, § 1.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (c)(1).

The 2021 amendment rewrote (b) and deleted (c).

CASE NOTES

Traffic Stops.

As the evidence showed that a deputy sheriff had probable cause to believe that defendant's vehicle had violated this section by crossing the center line by three feet, the deputy's traffic stop was constitutional. Webb v. State, 2011 Ark. 430, 385 S.W.3d 152 (2011).

Cited: Tiller v. State, 2014 Ark. App. 431, 439 S.W.3d 705 (2014); Lockhart v. State, 2017 Ark. 13, 508 S.W.3d 869 (2017).

27-51-302. Driving on roadways laned for traffic.

CASE NOTES

Probable Cause.

Where the Government mistakenly stated during a suppression hearing that it was not asserting this section as the basis for a traffic stop, the Government did not waive its right to argue that this section provided a valid basis for the traffic stop, because the Government asserted this section as a basis for the stop in its initial briefs, and the Government's misstatement at the hearing was not sufficient to support the conclusion that it intentionally relinquished or abandoned its right to resort to this section as a basis for the stop. United States v. Demilia, 771 F.3d 1051 (8th Cir. 2014).

27-51-305. Following too closely — Definition.

(a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having regard for the speed of vehicles and the traffic upon and the condition of the highway.

(b)(1) The driver of any motor truck or any motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district shall not follow within two hundred feet (200') of another motor vehicle.

(2) This subsection does not prevent overtaking and passing.

(c) Vehicles equipped with driver-assistive truck platooning systems may follow other vehicles closer than allowed under subsection (a) of this section and subdivision (b)(1) of this section.

(d) As used in this chapter, "driver-assistive truck platooning system" means technology that integrates sensor array, wireless communication, vehicle controls, and specialized software to synchronize acceleration and braking between two (2) or more vehicles while leaving

each vehicle's steering control and systems monitoring and intervention in the control of its human operator.

History. Acts 1937, No. 300, § 63; Pope's Dig., § 6721; A.S.A. 1947, § 75-614; Acts 2001, No. 998, § 1; 2017, No. 797, § 1.

Amendments. The 2017 amendment deleted "due" preceding "regard" in (a); substituted "This subsection does not" for "The provisions of this subsection shall not be construed to" in (b)(2); and added (c) and (d).

Cross References. Driver-assistive truck platooning systems, § 27-51-1408.

CASE NOTES

Probable Cause for Traffic Stop.

Trial court clearly erred in denying defendant's motion to suppress because probable cause did not exist for the traffic stop, as the facts and circumstances within the officer's knowledge were not sufficient to permit a person of reasonable caution to believe defendant had committed the traffic offense of following too closely to the vehicle that pulled in front of him; the "fault" in the situation lay more with the driver who pulled into defendant's lane, and the officer did not allow enough time for defendant to correct the situation that he admittedly did not cause. Pargament v. State, 2019 Ark. App. 311, 577 S.W.3d 761 (2019).

27-51-310. Passing authorized vehicle stopped on highway — Definition.

(a) As used in this section, "authorized vehicle" means a vehicle that:

(1) Displays a flashing, revolving, or rotating blue, red, amber, amber and red, white, or green light; and

(2) Is one (1) of the following:

(A) An emergency response vehicle;

(B) A law enforcement vehicle;

(C) An Arkansas Department of Transportation vehicle;

(D) An Arkansas Department of Transportation contractor vehicle;

(E) A utility company vehicle; or

(F) A vehicle used in a towing operation as defined under § 27-51-904.

(b)(1) Except as provided under subdivision (b)(2) of this section, the driver of a motor vehicle that is approaching an authorized vehicle that is stopped or parked on a street, road, or highway or on the shoulder of a street, road, or highway shall:

(A) Move to the farthest possible lane or position from the authorized vehicle;

(B) Remain in that lane or position until the driver passes the authorized vehicle; and

(C) Otherwise exercise due caution.

(2) If the driver determines that it is unsafe or not possible to change lanes as required under subdivision (b)(1) of this section, the driver shall:

(A) Reduce the motor vehicle's speed;

(B) Exercise due caution; and

(C) Maintain a reduced speed appropriate to the street, road, or highway and the conditions through the area where the authorized vehicle is stopped or parked.

(c)(1) A person who pleads guilty or nolo contendere to or is found guilty of violating this section shall be guilty of a misdemeanor and shall be fined not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000), confined in the county jail not to exceed ninety (90) days, or both fined and imprisoned.

(2) In addition to the penalties prescribed in subdivision (c)(1) of this section, the court may order community service for not more than seven (7) days and may suspend the person's driver's license for a period of not less than ninety (90) days nor more than six (6) months.

(d) There is created a rebuttable presumption that shall arise in any criminal action under this section to the effect that if it can be proven that a person is the registered owner of a vehicle that is driven in a manner that violates this section, the person is presumed to have been the driver of the vehicle at the time of the violation.

History. Acts 2003, No. 1102, § 1; 2007, No. 1412, § 1; 2009, No. 483, § 5; 2013, No. 579, § 1; 2017, No. 707, § 351; 2019, No. 550, § 1.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (a)(2)(C) and (a)(2)(D).

The 2019 amendment, in (c)(1), substituted "two hundred fifty dollars ($250)" for "thirty-five dollars ($35.00)" and substituted "one thousand dollars ($1,000)" for "five hundred dollars ($500)".

Subchapter 4 — Turning, Stopping, and Signaling

27-51-403. Signals for turning, stopping, changing lanes, or decreasing speed required.

CASE NOTES

Analysis

Application.
Generally.
Motion to Suppress.

Application.

In a personal injury case, a trial court did not err by denying a driver's proffered jury instruction regarding a bicyclist's duty to signal prior to turning because this section did not apply to bicycles; therefore, the bicyclist did not have a duty to signal continuously for 100 feet. Sanson v. Allinson, 2014 Ark. App. 619, 447 S.W.3d 151 (2014).

Generally.

"May be affected" language means that a turn signal is not required if other traffic is not present. Similarly, this section has been interpreted to mean that other traffic must be present before the obligation to signal arises, with subsection (b) prescribing the manner of signaling if signaling is required by subsection (a) or (c); the Court of Appeals of Arkansas, Division Three, agrees with that interpretation. Mitchell v. State, 2012 Ark. App. 128 (2012).

Motion to Suppress.

In a driving while intoxicated case, a motion to suppress was properly denied because an officer had probable cause to stop appellant for failing to use a turn signal, in violation of this section; there was a close enough question as to whether a vehicle in front of appellant was affected by the movement so as to justify the stop. Mitchell v. State, 2012 Ark. App. 128 (2012).

Defendant's motion to suppress was

properly denied, because the officer had probable cause to believe that defendant had committed a traffic violation when the officer observed that defendant moved into a turn lane and made two turns without using a turn signal, as such actions may have affected another driver, in violation of this section. Murchison v. State, 2014 Ark. App. 379 (2014).

Subchapter 7 — Railroad Grade Crossings

SECTION.
27-51-702. Obedience to signals at crossings required.
27-51-703. Certain vehicles to stop at all crossings — Exceptions.
27-51-704. Trucks carrying explosives or flammable liquids.
27-51-705. Moving heavy equipment at crossings.

27-51-702. Obedience to signals at crossings required.

(a)(1) Whenever a person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of the vehicle shall stop within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of the railroad and shall not proceed until he or she can do so safely.

(2) The requirements under subdivision (a)(1) of this section apply when:

(A) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train or other on-track equipment;

(B) A crossing gate is lowered or a human flagger gives or continues to give a signal of the approach or passage of a railroad train or other on-track equipment;

(C) A railroad train or other on-track equipment approaching within approximately one thousand five hundred feet (1,500') of the highway crossing emits a signal audible from such distance and the railroad train or other on-track equipment, by reason of the speed or nearness to the crossing of the railroad train or other on-track equipment, is an immediate hazard; and

(D) An approaching railroad train or other on-track equipment is plainly visible and is in hazardous proximity to the crossing.

(b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.

History. Acts 1937, No. 300, § 84; Pope's Dig., § 6742; Acts 1951, No. 182, § 1; 1959, No. 307, § 28; A.S.A. 1947, § 75-637; Acts 2021, No. 754, § 1.

Amendments. The 2021 amendment redesignated (a) as (a)(1) and (a)(2); added "or other on-track equipment" throughout (a)(2); inserted "of the railroad train or other on-track equipment" in (a)(2)(C); and made stylistic changes.

27-51-703. Certain vehicles to stop at all crossings — Exceptions.

(a)(1) The driver of a motor vehicle carrying passengers for hire, a school bus carrying a school child, or a vehicle carrying explosive

substances or flammable liquids as a cargo or part of a cargo before crossing at grade any tracks of a railroad shall:

(A) Stop the vehicle within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of the railroad; and

(B) While stopped as required by subdivision (a)(1)(A) of this section, listen and look in both directions along the track for an approaching train or other on-track equipment and for signals indicating the approach of a train or other on-track equipment, except as provided, and shall not proceed until he or she can do so safely.

(2) After stopping as required in this section and upon proceeding when it is safe to do so, the driver of the vehicle shall cross only in the gear of the vehicle in which there will be no necessity for changing gears while traversing the crossing and the driver shall not shift gears while crossing the tracks.

(b) No stop need be made at any such crossing where a police officer or a traffic control signal directs traffic to proceed.

(c) This section shall not apply at street railway grade crossings within a business or residential district.

History. Acts 1937, No. 300, § 86; Pope's Dig., § 6743; Acts 1951, No. 182, § 2; 1959, No. 307, § 29; A.S.A. 1947, § 75-638; Acts 2021, No. 754, § 2.

Amendments. The 2021 amendment added the designations within (a); in (a)(1)(B), inserted "as required by subdivision (a)(1)(A) of this section" and twice inserted "or other on-track equipment"; and made stylistic changes.

27-51-704. Trucks carrying explosives or flammable liquids.

(a) The operator of a truck carrying any explosive substances or flammable liquids or gases as a cargo or part of a cargo shall:

(1) Before crossing any railroad tracks, stop the vehicle within fifty feet (50') but not less than fifteen feet (15') from the nearest railroad;

(2) While stopped as required by subdivision (a)(1) of this section shall open the door of the truck on the driver's side or roll down the window at least twelve inches (12″) in order to remove any obstruction of the sound of a train whistle; and

(3) Listen and look in both directions along the track for any approaching train or other on-track equipment or signals indicating the approach of a train or other on-track equipment and shall proceed to cross the tracks only after he or she has determined that it is safe to do so.

(b)(1) Any operator of a truck who fails to comply with the provisions of this section shall be guilty of a misdemeanor.

(2)(A)(i) Upon a first conviction, the operator shall be fined not less than one hundred dollars ($100) nor more than three hundred dollars ($300).

(ii) In addition, the chauffeur's license of the operator shall be suspended for a period of thirty (30) days.

(B)(i) For a second offense, the operator shall be fined not less than one hundred dollars ($100) nor more than three hundred dollars ($300).

(ii) In addition, that person's chauffeur's license shall be suspended for a period of one (1) year.

History. Acts 1975, No. 878, §§ 1, 2; A.S.A. 1947, §§ 75-638.1, 75-638.2; Acts 2021, No. 754, § 3.

Amendments. The 2021 amendment added the designations within (a); inserted "as required by subdivision (a)(1) of this section" in (a)(2); inserted "or other on-track equipment" twice in (a)(3); and made stylistic changes.

27-51-705. Moving heavy equipment at crossings.

(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of up to ten miles per hour (10 m.p.h.) or a vertical body or load clearance of less than one-half inch (½″) per foot of the distance between any two (2) adjacent axles or, in any event, of less than nine inches (9″), measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.

(b) Notice of any intended crossing shall be given to a station agent of the railroad, and a reasonable time shall be given to the railroad to provide proper protection at the crossing.

(c) Before making any crossing, the person operating or moving a vehicle or equipment described in subsection (a) of this section shall:

(1) First stop not less than fifteen feet (15') nor more than fifty feet (50') from the nearest rail of the railroad; and

(2) While stopped that person shall listen and look in both directions along the tracks for any approaching train or other on-track equipment and for signals indicating the approach of a train or other on-track equipment and shall not proceed until the crossing can be made safely.

(d)(1) No crossing shall be made when warning is given by automatic signal or crossing gates or a flagger or otherwise of the immediate approach of a railroad train or car or other on-track equipment.

(2) If a flagger is provided by the railroad, movement over the crossing shall be under his or her direction.

History. Acts 1937, No. 300, § 87; Pope's Dig., § 6744; Acts 1951, No. 182, § 3; 1959, No. 307, § 30; A.S.A. 1947, § 75-639; Acts 2021, No. 754, § 4.

Amendments. The 2021 amendment added the designations within (c); inserted "described in subsection (a) of this section" in the introductory language of (c); inserted "or other on-track equipment" in (c)(2) twice and in (d)(1); and made stylistic changes.

Subchapter 9 — Emergency Vehicles

SECTION.
27-51-905. Use of flashing emergency lights — Definition.
SECTION.
27-51-906. Police vehicle exceptions.

27-51-905. Use of flashing emergency lights — Definition.

(a)(1) All of the following shall be equipped with red rotating or flashing emergency lights:

(A) Motor vehicles used by state, county, city, or municipal fire departments;

(B) Motor vehicles owned and used by volunteer firefighters while engaged in official duties;

(C) Motor vehicles used by emergency medical services personnel licensed by the Department of Health or privately owned fire departments; and

(D) Ambulances used solely for ambulance purposes that are approved as ambulances in accordance with state and federal highway safety standards.

(2) Flashing emergency lights shall be used by volunteer firefighters solely while engaged in the performance of duties as volunteer firefighters and by emergency medical services personnel solely while engaged in the performance of duties with an ambulance service licensed by the department or an organized rescue squad or team.

(b)(1) As used in this section, "hazardous service vehicle" means:

(A) A motor vehicle owned by a state, county, or municipal agency, the use of which is determined by the agency to be required for dangerous or hazardous service; and

(B) A motor vehicle owned by a public service corporation or by a private individual, the use of which is determined by the Office of Motor Vehicle, in accordance with rules established by the office to prevent abuses thereof, to be used for hazardous service.

(2)(A) A hazardous service vehicle may be equipped with amber flashing or rotating emergency or warning lights that shall display its amber flashing or rotating emergency or warning lights during hazardous use in order that other motorists and the public are aware of the hazardous use of the vehicle and exercise caution when approaching the vehicle at all times while the amber flashing or rotating emergency or warning lights are in operation.

(B) Equipage with or display of amber flashing or rotating emergency or warning lights does not qualify a motor vehicle as an emergency vehicle or a hazardous service vehicle.

(3) All hazardous service vehicles shall conform to regular traffic signals and speed limits during their operation.

(c)(1) A motor vehicle used as a wrecker or tow vehicle permitted or licensed under § 27-50-1203 may be equipped with amber flashing or rotating emergency or warning lights that shall be displayed only during hazardous use in order that other motorists and the public are

aware of the special or hazardous use of the wrecker or tow vehicle and exercise caution in approaching the wrecker or tow vehicle at all times while the amber flashing or rotating emergency or warning lights are in operation.

(2) Equipage with or display of amber flashing or rotating emergency or warning lights does not qualify a motor vehicle used as a wrecker or tow vehicle as an emergency vehicle.

(3)(A) Red flashing or rotating emergency or warning lights on a motor vehicle used as a wrecker or tow vehicle shall be operated only while the wrecker or tow vehicle is stopped on or within ten feet (10') of a public way and engaged in recovery or loading and hooking up an abandoned, unattended, disabled, or wrecked vehicle.

(B) A wrecker or tow vehicle shall not operate forward-facing red flashing or rotating emergency or warning lights while underway, except as may be expressly authorized or required by law otherwise.

(d) It is unlawful to install, operate, or use any rotating or flashing light on any motor vehicle except as authorized in this section.

History. Acts 1937, No. 300, § 2; Pope's Dig., § 6660; Acts 1973, No. 155, § 1; A.S.A. 1947, § 75-402; Acts 1993, No. 1010, § 2; 1995, No. 123, § 2; 1995, No. 753, § 1; 2007, No. 1412, § 3; 2009, No. 689, § 20; 2011, No. 780, § 4; 2017, No. 448, § 39.

Publisher's Notes. The subject matter of this section was formerly codified as § 27-49-219(d).

27-51-906. Police vehicle exceptions.

(a) An authorized emergency vehicle operated as a police vehicle is not required to operate the vehicle's siren or flashing lights when the emergency vehicle is responding to an emergency call or when in pursuit of an actual or suspected violator if the emergency vehicle is being used to:

(1) Obtain evidence of a speeding violation;

(2) Respond to a suspected crime in progress when use of an audible or visual signal could result in the destruction of evidence or escape of a suspect; or

(3) Conduct surveillance of a vehicle or the passengers of a vehicle who are suspected of involvement in a crime.

(b) This section does not relieve the driver of an authorized emergency vehicle operated as a police vehicle from:

(1) The duty to drive with regard for the safety of all persons using the street; or

(2) Any legal consequence resulting from a reckless disregard of the safety of others.

History. Acts 2017, No. 793, § 4.

Subchapter 10 — School Buses

SECTION.
27-51-1001. Penalty.
27-51-1002. Specifications for identification and safety devices.
27-51-1004. Passing when stopped prohibited.

27-51-1001. Penalty.

(a)(1)(A)(i) Except as provided in subsection (d) of this section and § 27-51-1004(d), a person who violates the provisions of this subchapter shall upon conviction be guilty of a misdemeanor and shall be fined not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000) or confined in the county jail not to exceed ninety (90) days, or both fined and imprisoned.

(ii) In addition to the penalties so prescribed, the court may order community service for not more than four hundred (400) hours and shall suspend the person's driver's license for a period of not less than twenty-one (21) days nor more than one (1) year.

(B) There is hereby created a rebuttable presumption that shall arise in any criminal action under this subchapter to the effect that if it can be proven that a person is the registered owner of a vehicle that is driven in a manner which violates the provisions of this subchapter, the person is presumed to have been the driver of the vehicle at the time of the violation.

(2) If death results to any person, caused either directly or indirectly by noncompliance with or violation of any of the provisions of this subchapter, the offending party shall be punished as is provided by law.

(b) In a proceeding for a violation of this subchapter, proof that the particular vehicle described in the citation, complaint, or warrant was in violation of this subchapter, together with proof that the defendant named in the citation, complaint, or warrant was at the time of the violation a registered owner of the vehicle, shall constitute in evidence a justifiable inference that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.

(c) A photograph or video recorded by an automated school bus safety camera authorized by § 6-19-131:

(1) Is admissible as evidence in a criminal or civil proceeding to the extent permitted by the rules of evidence of this state; and

(2) Is not required for the prosecution of a violation of an offense under this subchapter.

(d) A person who violates the provisions of § 27-51-1004 shall be fined not less than five hundred dollars ($500) nor more than two thousand five hundred dollars ($2,500).

History. Acts 1953, No. 356, § 4; 1975, No. 255, § 2; 1985, No. 1078, § 1; A.S.A. 1947, § 75-659; Acts 1999, No. 1516, § 1; 2005, No. 2128, § 3; 2017, No. 398, § 2; 2019, No. 166, §§ 1, 2; 2021, No. 264, § 1.

Amendments. The 2017 amendment added (c).

The 2019 amendment, in (a)(1)(A)(i), substituted "Except as provided in subsection (d) of this section and § 27-51-

1004(c), a person" for "Any party"; added (d); and made a stylistic change.

The 2021 amendment substituted "§ 27-51-1004(d)" for "§ 27-51-1004(c)" in (a)(1)(A)(i).

27-51-1002. Specifications for identification and safety devices.

(a)(1) All vehicles used for the transportation of pupils to or from any school shall have a sign on the front and on the rear of the vehicle showing the words "SCHOOL BUS", and the words shall be plainly readable in letters not less than eight inches (8″) in height.

(2) When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school, all markings thereon indicating "SCHOOL BUS" shall be covered or concealed.

(b) Every school bus shall be in the color officially designated by the State Board of Education.

(c)(1)(A) The board is vested with full authority and responsibility to prescribe by rule the number and location and other specifications for alternating red warning lights on school buses operated in this state.

(B) Alternating red warning lights shall be operating at all times when the buses are loading or unloading school children but at no other time.

(2) It shall be the duty of the operator of every school bus operated in this state to conduct an inspection before each trip begins to see that all identification and safety devices required by this section or required by rule of the board are displayed on the vehicle in the manner required, and it is unlawful for any person to operate a school bus in this state unless identification and safety devices are properly displayed and in proper working order.

History. Acts 1953, No. 356, § 1; 1957, No. 322, § 1; 1959, No. 307, § 32; 1965, No. 426, § 1; 1973, No. 579, § 1; 1975, No. 255, § 1; A.S.A. 1947, § 75-658; Acts 2005, No. 2128, § 4; 2019, No. 315, §§ 3156, 3157.

Amendments. The 2019 amendment substituted "rule" for "regulation" in (c)(1)(A) and (c)(2).

27-51-1004. Passing when stopped prohibited.

(a) When a school bus stops and displays its alternating red warning lights for the purpose of loading or unloading passengers, every operator of a motor vehicle or motorcycle meeting or overtaking the school bus from any direction shall bring the motor vehicle or motorcycle to a complete stop not less than thirty feet (30') before reaching the school bus.

(b) The operator of the motor vehicle or motorcycle shall not start up or attempt to pass in any direction until the school bus has finished receiving or discharging its passengers and is in motion again.

(c) A violation of this section includes the failure of the operator of a motor vehicle or motorcycle to comply with subsection (a) or subsection (b) of this section while operating the motor vehicle or motorcycle upon:

(1) A public road, street, or highway;

(2) Private or public property open to the general public; or

(3) A private or public road, driveway, or parking lot belonging to a kindergarten through grade twelve (K-12) private or public school.

(d) If the operator of a motor vehicle or motorcycle fails to comply with subsection (a) or subsection (b) of this section while demonstrating a reckless disregard for the safety of the passengers of the school bus, the operator upon conviction is guilty of a Class A misdemeanor.

History. Acts 1953, No. 356, § 1; 1957, No. 322, § 1; 1985, No. 1083, § 1; A.S.A. 1947, § 75-658; Acts 1989, No. 243, § 1; 2005, No. 2128, § 5; 2019, No. 166, § 2[3]; 2021, No. 264, § 2.

Amendments. The 2019 amendment added (c).

The 2021 amendment inserted "not less than thirty feet (30')" in (a); deleted "vehicle" following "school bus" in (b); inserted (c); redesignated former (c) as (d); and made a stylistic change.

Subchapter 13 — Stopping, Standing, or Parking

SECTION.

27-51-1303. Stopping, standing, or parking outside of business or residence district.

27-51-1303. Stopping, standing, or parking outside of business or residence district.

(a)(1) Upon any highway outside of a business or residential district, no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park, or leave the vehicle off that part of the highway. In every event, an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles, and a clear view of the stopped vehicles shall be available from a distance of two hundred feet (200') in each direction upon the highway.

(2) Any driver who shall violate the provisions of this section shall be liable for any damages of which the violation is the proximate cause.

(3) This subsection shall not apply to:

(A) Employees or vehicles of the Arkansas Department of Transportation engaged in necessary construction, maintenance, or repair of the highways;

(B) Authorized emergency vehicles on emergency trips such as police vehicles on duty, fire vehicles on calls, or ambulances and wreckers engaged in the removal of persons or vehicles from the traveled part of the highway; or

(C) Public utility or service vehicles of any type, including, but not limited to, mail delivery, overnight couriers, electric or gas utility, or solid waste collection if the utility or service vehicles are at least one-half (½) outside the designated lane and remain on the highway

only for the time reasonably necessary to perform the required service.

(b) This section shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in a manner and to an extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in that position.

History. Acts 1937, No. 300, § 90; Pope's Dig., § 6747; Acts 1959, No. 307, § 37; 1979, No. 674, § 1; A.S.A. 1947, § 75-647; Acts 2003, No. 863, § 1; 2017, No. 707, § 352.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (a)(3)(A).

Subchapter 14 — Miscellaneous Rules

SECTION.
27-51-1403. [Repealed.]
27-51-1408. Driver-assistive truck platooning systems.
SECTION.
27-51-1409. Operation of motor vehicles on approach of funeral procession.

27-51-1403. [Repealed.]

Publisher's Notes. This section, concerning driving on mountain highways, was repealed by Acts 2011, No. 780, § 10. The section was derived from Acts 1937, No. 300, § 96; Pope's Dig., § 6753; A.S.A. 1947, § 75-653.

27-51-1405. Throwing destructive or injurious materials on highway prohibited.

CASE NOTES

Construction.

Subsection (c) of this section imposes a duty on one "removing a wrecked or damaged vehicle from a public highway" to also remove "any glass or other injurious substance dropped upon the public highway from the vehicle". There is nothing in this subsection that requires the material to be unnatural; instead, the focus is on whether the material is an "injurious substance". McKim v. Sullivan, 2019 Ark. App. 485, 588 S.W.3d 118 (2019).

Subsection (b) of this section imposes a duty to immediately remove or cause the removal of "any destructive or injurious material" that he or she "drops or permits to be dropped or thrown upon any highway". There is nothing in this subsection that would suggest that the material must be unnatural. The focus is instead on whether the material is "destructive or injurious". McKim v. Sullivan, 2019 Ark. App. 485, 588 S.W.3d 118 (2019).

Based on the plain language of this section, nothing in this section limits the substances and materials referenced in the section to unnatural ones. Instead, subsection (a) prohibits one from depositing "any other substance likely to injure any person, animal, or vehicle upon the highway". McKim v. Sullivan, 2019 Ark. App. 485, 588 S.W.3d 118 (2019).

This section cannot be read to allow a person to throw or deposit substantial amounts of dirt, gravel, timber, or hay on the road without possible consequences simply because those substances are natural rather than unnatural. The correct inquiry under the statute is not whether the substances are natural or unnatural; rather, it is whether the material or substance on the public highway at issue is a "substance likely to injure", is "destructive or injurious material", or an "injurious substance". McKim v. Sullivan, 2019 Ark. App. 485, 588 S.W.3d 118 (2019).

27-51-1408. Driver-assistive truck platooning systems.

(a) A person may operate a driver-assistive truck platooning system on a street or highway of this state if the person files a plan for general platoon operations with the State Highway Commission.

(b) A person may operate a driver-assistive truck platooning system on a street or highway of this state:

(1) Upon approval of the plan required under subsection (a) of this section by the commission; or

(2) Forty-five (45) days after the submission of the plan required under subsection (a) of this section, if the plan has not been rejected by the commission.

History. Acts 2017, No. 797, § 2.

Cross References. Exception for vehicles equipped with driver-assistive truck platooning systems, § 27-51-305(c).

27-51-1409. Operation of motor vehicles on approach of funeral procession.

(a) A person driving a motor vehicle that is not a part of a funeral procession shall not:

(1) Drive between the motor vehicles of a funeral procession while the motor vehicles are in motion;

(2) Join a funeral procession for the purpose of securing the right-of-way allowed by § 27-49-113(c)(1);

(3) Pass a funeral procession on a multiple-lane highway on the right side of the funeral procession unless the funeral procession is in the leftmost lane; or

(4) Enter an intersection when a funeral procession is proceeding through a red official traffic control signal as permitted by § 27-49-113(c)(1) unless the driver of the motor vehicle enters the intersection without crossing the path of the funeral procession.

(b) Upon conviction, a person who violates this section is guilty of a violation and may be fined not more than two hundred fifty dollars ($250).

History. Acts 2017, No. 816, § 4.

Subchapter 15 — Paul's Law: To Prohibit Drivers From Using a Wireless Telecommunications Device While Operating a Motor Vehicle

SECTION.
27-51-1501. Title.
27-51-1503. Definitions.
27-51-1504. Use of wireless telecommunications device when driving.
27-51-1505. Preemption.
27-51-1506. Penalties.

RESEARCH REFERENCES

ALR. Criminal and Quasi-Criminal Liability Arising from Use of Portable Electronic Device While Driving. 5 A.L.R.7th Art. 3 (2015).

27-51-1501. Title.

This subchapter is known and may be cited as "Paul's Law: To Prohibit Drivers From Using a Wireless Communications Device While Operating a Motor Vehicle".

History. Acts 2009, No. 181, § 1; 2017, No. 706, § 1.

Amendments. The 2017 amendment substituted "Drivers From Using a Wireless Communications Device While Operating a Motor Vehicle" for "Drivers of Motor Vehicles from Using Handheld Wireless Telephones to Engage in Text Messaging".

27-51-1503. Definitions.

As used in this subchapter:

(1) "Access, read, or post to a social networking site" means using a wireless telecommunications device to interact with a web-based service that allows a person to:

(A) Construct a profile within a bounded system;

(B) Articulate a list of other members with whom the person shares a connection; and

(C) Communicate with other members of the site;

(2)(A) "Operate a motor vehicle" or "operating a motor vehicle" means operating a motor vehicle on a public road, street, or highway.

(B) "Operate a motor vehicle" or "operating a motor vehicle" does not include driving or operating a motor vehicle that has been pulled over to the side of or off of a public road, street, or highway and stopped by the driver in a location where the motor vehicle may safely remain stationary;

(3) "Texting" means reading from or manually entering data into a wireless telecommunications device, including doing so for the purpose of SMS texting, emailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication; and

(4)(A) "Wireless telecommunications device" means a cellular telephone, a text-messaging device, a personal digital assistant, a standalone computer, or a substantially similar wireless device that is readily removable from the vehicle and is used to write, send, or read text or data through manual input.

(B) "Wireless telecommunications device" does not include a:

(i) Citizens band radio;

(ii) Citizens band radio hybrid;

(iii) Commercial two-way radio communication device or any device with push-to-talk capabilities used in a similar manner as a citizens band radio or a citizens band radio hybrid;

(iv) Two-way radio transmitter or receiver used by a licensee of the Federal Communications Commission in the Amateur Radio Service; or

(v) Hands-free wireless telecommunications device.

History. Acts 2009, No. 181, § 1; 2017, No. 706, § 2; 2019, No. 577, § 3; 2019, No. 738, § 3.

Amendments. The 2017 amendment rewrote the section.

The 2019 amendment by No. 577 added "or any device with push-to-talk capabilities used in a similar manner as a citizens band radio or a citizens band radio hybrid" in [present (4)(B)(iii)].

The 2019 amendment by No. 738 inserted (2) and (3); redesignated former (2) as (4); deleted former (3); and substituted "telecommunications device" for "telephone or device" in (4)(B)(v).

27-51-1504. Use of wireless telecommunications device when driving.

(a)(1) Except as otherwise provided in subsection (b) of this section, a driver of a motor vehicle shall not operate a motor vehicle while using a wireless telecommunications device to:

(A) Engage in texting; or

(B) Access, read, or post to a social networking site.

(2) A driver of a motor vehicle is not in violation of subdivision (a)(1) of this section if he or she reads, selects, or enters a telephone number or name in a wireless telecommunications device for the purpose of making a telephone call.

(b) A person is exempt from the requirements of this section if he or she is:

(1) Performing official duties as a certified law enforcement officer, firefighter, ambulance driver, or emergency medical technician;

(2) Operating a motor vehicle while using a wireless telecommunications device to:

(A) Report illegal activity;

(B) Summon medical or other emergency assistance; or

(C) Prevent injury to a person or property; or

(3) A physician or healthcare provider using a wireless telecommunications device for emergency medical purposes.

History. Acts 2009, No. 181, § 1; 2017, No. 706, § 3; 2019, No. 738, § 4.

Amendments. The 2017 amendment rewrote the section.

The 2019 amendment substituted "Engage in texting" for "Write, send, or read a text-based communication" in (a)(1)(A); deleted (b)(2)(D) and (b)(2)(E); substituted "for emergency medical purposes" for "to communicate with a hospital, health clinic, or the office of the physician, or to provide for the health care or medical emergency of a person" in (b)(3); and made stylistic changes.

27-51-1505. Preemption.

This subchapter supersedes and preempts all county or municipal ordinances regarding the use of a wireless telecommunication device for texting while operating a motor vehicle.

History. Acts 2009, No. 181, § 1; 2019, No. 738, § 5.

Amendments. The 2019 amendment substituted "wireless telecommunication device" for "handheld wireless telephone" and "texting" for "wireless interactive communication".

27-51-1506. Penalties.

(a)(1) A violation of this subchapter is punishable by a fine of not less than twenty-five dollars ($25.00) nor more than two hundred fifty dollars ($250) for the first offense.

(2) Each subsequent violation of this subchapter is punishable by a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500).

(b)(1) If a person pleads guilty or nolo contendre to or the finder of fact determines that the person was involved in a collision or accident while in violation of this subchapter, a court shall in addition to any other sentence, assess an additional fine of double the amount of the standard fine imposed under subdivisions (a)(1) and (2) of this section.

(2) The law enforcement officer investigating the collision or accident shall indicate on the written accident form that the driver of the motor vehicle was using a wireless telecommunications device at the time of the collision or accident.

History. Acts 2009, No. 181, § 1; 2017, No. 706, § 4; 2019, No. 738, § 6.

Amendments. The 2017 amendment rewrote the section.

The 2019 amendment inserted "less than twenty-five dollars ($25.00) nor" in (a)(1); and inserted "less than fifty dollars ($50.00) nor" in (a)(2).

Subchapter 16 — Fewer Distractions Mean Safer Driving Act

SECTION.
27-51-1602. Definitions.
27-51-1603. Restrictions on drivers under 18 years of age.
27-51-1604. Restrictions on drivers at least 18 years of age but under 21 years of age.
27-51-1605. Restrictions in school zones.
27-51-1606. Restrictions in highway work zones — Definitions.
27-51-1607. Penalties.
27-51-1608. [Repealed.]
27-51-1609. [Repealed.]
27-51-1610. [Repealed.]

Effective Dates. Acts 2011, No. 37, § 6: applies to all violations committed on and after Oct. 1, 2011.

RESEARCH REFERENCES

ALR. Criminal and Quasi-Criminal Liability Arising from Use of Portable Electronic Device While Driving. 5 A.L.R.7th Art. 3 (2015).

27-51-1602. Definitions.

As used in this subchapter:

(1) "Emergency" means a situation in which a person is in need of assistance from any of the following:

(A) Law enforcement personnel;

(B) Fire department personnel;

(C) Public safety personnel;

(D) Emergency medical personnel; or

(E) A 911 public safety communications center;

(2) "Texting" means reading from or manually entering data into a wireless telecommunications device, including doing so for the purpose of short message service texting, emailing, instant messaging, or engaging in another form of electronic data retrieval or electronic data communication;

(3) "Wireless interactive communication" means talking, typing, texting, emailing, or accessing information on the internet via Wi-Fi, cellular data, or similar means; and

(4)(A) "Wireless telecommunications device" means a handheld cellular telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, or a substantially similar wireless device that is readily removable from a vehicle and is used to talk or type, send, or read text or data through manual input.

(B) "Wireless telecommunications device" does not include a:

(i) Citizens band radio;

(ii) Citizens band radio hybrid;

(iii) Commercial two-way radio communication device;

(iv) Two-way radio transmitter or receiver used by a licensee of the Federal Communications Commission in the Amateur Radio Service;

(v) Hands-free wireless telephone or device; or

(vi) Global positioning or navigation device system.

History. Acts 2009, No. 197, § 1; 2009, No. 247, § 1; 2011, No. 37, § 1; 2017, No. 707, § 353; 2019, No. 577, § 4; 2019, No. 738, § 7.

A.C.R.C. Notes. Pursuant to § 1-2-207(b), the amendment to former subdivision (2)(B) of this section by Acts 2019, No. 577, § 4, is superseded by the amendment to this section by Acts 2019, No. 738, § 7. As amended by Acts 2019, No. 577, subdivision (2)(B) provided:

"(B) 'Handheld wireless telephone' does not include a:

"(i) Hands-free wireless telephone or device;

"(ii) Citizens band radio;

"(iii) Citizens band radio hybrid;

"(iv) Device with push-to-talk capabilities used in a similar manner as a citizens band radio or a citizens band radio hybrid; or

"(v) Global positioning or navigation device or system;".

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (5)(A).

The 2019 amendment by No. 577 added (2)(B)(iv) and redesignated former (2)(B)(iv) as (2)(B)(v).

The 2019 amendment by No. 738 rewrote the section.

27-51-1603. Restrictions on drivers under 18 years of age.

(a) Except as provided under subsection (b) of this section, a driver of a motor vehicle who is under eighteen (18) years of age shall not use a wireless telecommunications device or a hands-free wireless telephone or device while operating a motor vehicle.

(b) A driver of a motor vehicle who is under eighteen (18) years of age may use a wireless telecommunications device or a hands-free wireless telephone or device while operating a motor vehicle only in an emergency.

History. Acts 2009, No. 197, § 1; 2009, No. 247, § 1; 2019, No. 738, § 7.

Amendments. The 2019 amendment substituted "wireless telecommunications device or a hands-free wireless telephone or device" for "wireless telephone for wireless interactive communication" in (a); and substituted "a wireless telecommunications device or a hands-free wireless telephone or device while operating a motor vehicle only in an emergency" for "a wireless telephone for wireless interactive communication while operating a motor vehicle for an emergency purpose only" in (b).

27-51-1604. Restrictions on drivers at least 18 years of age but under 21 years of age.

(a)(1) Except as provided under subsection (b) of this section, a driver of a motor vehicle who is at least eighteen (18) years of age but under twenty-one (21) years of age shall not use a wireless telecommunications device for wireless interactive communication while operating a motor vehicle.

(2) A driver of a motor vehicle who is at least eighteen (18) years of age but under twenty-one (21) years of age may use a hands-free wireless telephone or device for wireless interactive communication while operating a motor vehicle.

(b) A driver of a motor vehicle who is at least eighteen (18) years of age but under twenty-one (21) years of age may use a wireless telecommunications device for wireless interactive communication while operating a motor vehicle only in an emergency.

History. Acts 2009, No. 197, § 1; 2009, No. 247, § 1; 2019, No. 738, § 7.

Amendments. The 2019 amendment substituted "18 years of age" for "18" in the section heading; in (a)(1), substituted "provided under subsection (b) of this section" for "otherwise provided in this section", "eighteen (18) years of age" for "eighteen (18)", and "wireless telecommunications device" for "handheld wireless telephone"; substituted "eighteen (18) years of age" for "eighteen (18)" in (a)(2); and, in (b), substituted "eighteen (18) years of age" for "eighteen (18)", "wireless telecommunications device" for "handheld wireless telephone", and "only in an emergency" for "for an emergency purpose only".

27-51-1605. Restrictions in school zones.

(a) Except as provided under subsection (b) of this section, a driver of a motor vehicle shall not use a wireless telecommunications device while operating a motor vehicle when passing a school building or

school zone during school hours when children are present and outside the building.

(b) A driver of a motor vehicle who is passing a school building or school zone during school hours when children are present and outside the building may use a wireless telecommunications device while operating a motor vehicle only in an emergency.

(c) This section does not apply to a law enforcement officer engaged in the performance of his or her official duties.

History. Acts 2009, No. 197, § 1; 2009, No. 247, § 1; 2011, No. 37, § 2; 2019, No. 288, § 1; 2019, No. 738, § 7.

A.C.R.C. Notes. Pursuant to § 1-2-207(b), the amendment to this section by Acts 2019, No. 288, § 1, is superseded by the amendment to this section by Acts 2019, No. 738, § 7. As amended by Acts 2019, No. 288, this section read: "Enforcement. Except as provided under § 27-51-1609, a driver of a motor vehicle is not to be stopped or detained solely to determine compliance with this subchapter."

Amendments. The 2019 amendment by No. 288 added "Except as provided under § 27-51-1609"; and made stylistic changes.

The 2019 amendment by No. 738 rewrote the section.

27-51-1606. Restrictions in highway work zones — Definitions.

(a) Except as provided under subsection (b) of this section, a driver of a motor vehicle shall not use a wireless telecommunications device while operating a motor vehicle in a highway work zone when a highway worker is present.

(b) A driver of a motor vehicle who is in a highway work zone when a highway worker is present may use a wireless telecommunications device while operating a motor vehicle only in an emergency.

(c) This section does not apply to a law enforcement officer engaged in the performance of his or her official duties.

(d) As used in this section:

(1) "Highway work zone" means any area upon or adjacent to a highway, road, or street of this state where construction, reconstruction, maintenance, or any other type of work is being performed or is in progress; and

(2) "Highway worker" means an employee of any of the following who is present in a highway work zone:

(A) The Arkansas Department of Transportation;

(B) A county;

(C) A municipality; or

(D) A contractor or subcontractor of the State Highway Commission or a county or municipality that is performing duties related to the highway work zone.

History. Acts 2009, No. 197, § 1; 2009, No. 247, § 1; 2011, No. 37, § 3; 2019, No. 738, § 7

Amendments. The 2019 amendment rewrote the section.

27-51-1607. Penalties.

(a)(1) A violation of this subchapter is punishable by a fine of not less than twenty-five dollars ($25.00) nor more than two hundred fifty dollars ($250) for the first offense.

(2) Each subsequent violation of this subchapter is punishable by a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500).

(b) If a person pleads guilty or nolo contendere to a violation of this subchapter or the finder of fact determines that the person was involved in a collision or accident while in violation of this subchapter, a court shall, in addition to any other sentence, assess an additional fine of double the amount of the standard fine imposed under subdivisions (a)(1) and (2) of this section.

History. Acts 2009, No. 197, § 1; 2009, No. 247, § 1; 2017, No. 706, § 5; 2019, No. 738, § 7.

Amendments. The 2017 amendment rewrote the section.

The 2019 amendment inserted "less than twenty-five dollars ($25.00) nor" in (a)(1); inserted "less than fifty dollars ($50.00) nor" in (a)(2); and substituted "to a violation of this subchapter or the finder of fact determines" for "to or the finder of fact determines" in (b).

27-51-1608. [Repealed.]

Publisher's Notes. This section, concerning applicability, was repealed by Acts 2011, No. 37, § 4. The section was derived from Acts 2009, No. 197, § 1; 2009, No. 247, § 1.

27-51-1609. [Repealed.]

A.C.R.C. Notes. Pursuant to § 1-2-207(b), the amendment to this section by Acts 2019, No. 288, § 1, is superseded by the repeal of this section by Acts 2019, No. 738, § 7. As amended by Acts 2019, No. 288, this section read: "Restrictions in school.

"(a) Except as provided under subsection (b) of this section, a driver of a motor vehicle shall not use a handheld wireless telephone while operating a motor vehicle when passing a school building or school zone during school hours when children are present and outside the building.

"(b) A driver of a motor vehicle who is passing a school building or school zone during school hours when children are present and outside the building may use a handheld wireless telephone while operating a motor vehicle for an emergency purpose.

"(c) This section does not apply to a law enforcement officer engaged in the performance of his or her official duties.

"(d) A law enforcement officer may stop or detain a driver of a motor vehicle solely to determine compliance with this section."

Publisher's Notes. This section, concerning restrictions in school zones, was repealed by Acts 2019, No. 738, § 7, effective July 24, 2019. The section was derived from Acts 2011, No. 37, § 5; 2019, No. 288, § 2. For current law, see § 27-51-1605.

27-51-1610. [Repealed.]

Publisher's Notes. This section, concerning restrictions in highway work zones, was repealed by Acts 2019, No. 738, § 7, effective July 24, 2019. The section

was derived from Acts 2011, No. 37, § 5.
For current law, see § 27-51-1606.

Subchapter 17 — Electric Bicycle Act

SECTION.
27-51-1701. Title.
27-51-1702. Definitions.
27-51-1703. Rules for bicycles applicable to electric bicycles.
27-51-1704. Equipment.
27-51-1705. Use on bicycle paths.
27-51-1706. Rules for Class 3 electric bicycles.

27-51-1701. Title.

This subchapter shall be known and may be cited as the "Electric Bicycle Act".

History. Acts 2017, No. 956, § 3.

27-51-1702. Definitions.

As used in the subchapter:

(1) "Class 1 electric bicycle" means an electric bicycle equipped with a motor that provides assistance only when the operator is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of twenty miles per hour (20 m.p.h.);

(2) "Class 2 electric bicycle" means an electric bicycle equipped with a motor that may be used exclusively to propel the electric bicycle and that is not capable of providing assistance when the electric bicycle reaches the speed of twenty miles per hour (20 m.p.h.);

(3) "Class 3 electric bicycle" means an electric bicycle equipped with a motor that provides assistance only when the operator is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of twenty-eight miles per hour (28 m.p.h.); and

(4) "Electric bicycle" means a bicycle equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts (750 W) that meets one (1) of the classifications defined in subdivisions (1)-(3) of this section.

History. Acts 2017, No. 956, § 3.

27-51-1703. Rules for bicycles applicable to electric bicycles.

For the purposes of this subchapter:

(1) An electric bicycle or an operator of an electric bicycle shall be afforded all the rights and privileges, and be subject to all of the duties, of a bicycle or the operator of a bicycle;

(2) An electric bicycle is not a motor vehicle; and

(3) An electric bicycle or an operator of an electric bicycle is not subject to the provisions of this title relating to insurance, licensing, registration, operator's licenses, and certificates of title.

History. Acts 2017, No. 956, § 3.

27-51-1704. Equipment.

(a) An electric bicycle shall comply with the equipment and manufacturing requirements for bicycles adopted by the Consumer Product Safety Commission, 16 C.F.R. part 1512.

(b) On and after January 1, 2018, a manufacturer or distributor of electric bicycles shall apply a label in at least 9-point font that is permanently affixed in a prominent location to each electric bicycle identifying the:

(1) Classification number;

(2) Top assisted speed; and

(3) Motor wattage of the electric bicycle.

(c) A person shall not tamper with or modify an electric bicycle so as to change the motor-powered speed capability or engagement of an electric bicycle, unless he or she appropriately replaces the label indicating the classification required in subsection (b) of this section.

(d)(1) A Class 2 electric bicycle shall operate in a manner so that the electric motor is disengaged or ceases to function when the brakes are applied.

(2) A Class 1 electric bicycle and a Class 3 electric bicycle shall operate in a manner so that the motor will disengage through or cease to function when the operator stops pedaling.

History. Acts 2017, No. 956, § 3.

27-51-1705. Use on bicycle paths.

(a)(1) A Class 1 electric bicycle or a Class 2 electric bicycle may be used on a bicycle path or multi-use path where bicycles are permitted.

(2) However, the local authority having jurisdiction over a bicycle path or multi-use path may prohibit the operation of a Class 1 electric bicycle or a Class 2 electric bicycle on that path.

(b) A Class 3 electric bicycle shall not be operated on a bicycle path or multi-use path unless it is within or adjacent to a highway or roadway, or unless the local authority having jurisdiction over the path permits the operation of a Class 3 electric bicycle.

History. Acts 2017, No. 956, § 3.

27-51-1706. Rules for Class 3 electric bicycles.

(a)(1) A person under sixteen (16) years of age shall not operate a Class 3 electric bicycle.

(2) A person under sixteen (16) years of age may ride as a passenger on a Class 3 electric bicycle that is designed to accommodate passengers.

(b) A person under twenty-one (21) years of age who is an operator of or a passenger on a Class 3 electric bicycle shall wear a helmet that meets or exceeds the safety standard for bicycle helmets under 16 C.F.R. part 1203.

(c) All Class 3 electric bicycles shall be equipped with a speedometer that displays the speed the bicycle is traveling in miles per hour.

History. Acts 2017, No. 956, § 3.

Subchapter 18 — Bicycles

SECTION.
27-51-1801. Definitions.
27-51-1802. Rights and duties.
27-51-1803. Entering stop or yield intersection.
27-51-1804. Operation of bicycle upon crosswalk.

27-51-1801. Definitions.

As used in this subchapter:

(1) "Bicycle" means a human-powered vehicle:

(A) With two (2) or more wheels in tandem, designed to transport by the act of pedaling one (1) or more persons seated on one (1) or more saddle seats on its frame; and

(B) Used on a public road, bicycle path, crosswalk, or right-of-way; and

(2) "Immediate hazard" means a vehicle approaching a person operating a bicycle at a proximity and rate of speed sufficient to indicate to a reasonably careful person that there is a danger of collision or accident.

History. Acts 2019, No. 650, § 1; 2021, No. 1067, § 1.

Amendments. The 2021 amendment inserted "crosswalk" in (1)(B).

27-51-1802. Rights and duties.

A person operating a bicycle has the rights and duties applicable to a driver of a vehicle, unless:

(1) A provision of this subchapter alters a right or duty; or

(2) A right or duty applicable to a driver of a vehicle cannot by its nature apply to a person operating a bicycle.

History. Acts 2019, No. 650, § 1.

27-51-1803. Entering stop or yield intersection.

(a)(1) A person operating a bicycle approaching a stop sign shall:

(A) Slow down;

(B) If required to avoid an immediate hazard, stop at the stop sign before entering the intersection; and

(C) Cautiously enter the intersection and yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(2) If a person operating a bicycle meets the requirements provided in subdivision (a)(1) of this section, he or she may cautiously make a

right or left turn, or proceed through the intersection without stopping at the stop sign.

(b)(1) A person operating a bicycle approaching a steady red traffic control light shall:

(A) Make a complete stop at the steady red traffic control light before entering the intersection; and

(B) Yield the right-of-way to all oncoming traffic that constitutes an immediate hazard during the time that he or she is moving across or within the intersection.

(2) If a person operating a bicycle meets the requirements as provided in subdivision (b)(1) of this section, he or she may proceed through the steady red traffic control light with caution.

(3) However, a person operating a bicycle may make a:

(A) Right-hand turn at a steady red traffic control light without stopping after slowing to a reasonable speed and yielding the right-of-way, if required, to oncoming traffic that constitutes an immediate hazard; or

(B) Left-hand turn onto a one-way road at a steady red traffic control light after stopping and yielding to oncoming traffic that constitutes an immediate hazard.

History. Acts 2019, No. 650, § 1.

27-51-1804. Operation of bicycle upon crosswalk.

(a) A person operating a bicycle upon a crosswalk shall:

(1) Yield the right-of-way to pedestrians; and

(2) Give an audible signal before overtaking and passing a pedestrian.

(b) Except as provided in subsection (a) of this section, a person lawfully operating a bicycle upon a crosswalk has all the rights and duties applicable to a pedestrian using the crosswalk under § 27-51-1202.

History. Acts 2021, No. 1067, § 2.

Subchapter 19 — Electric Motorized Scooter Act

SECTION.
27-51-1901. Title.
27-51-1902. Definitions.
27-51-1903. Operation of an electric motorized scooter.
27-51-1904. Shared scooter — Insurance required.
27-51-1905. Local authority regulation of electric motorized scooters.

27-51-1901. Title.

This subchapter shall be known and may be cited as the "Electric Motorized Scooter Act".

History. Acts 2019, No. 1015, § 1.

27-51-1902. Definitions.

As used in this subchapter:

(1)(A) "Electric motorized scooter" means a device that:

(i) Weighs less than one hundred pounds (100 lbs.);

(ii) Has two (2) or three (3) wheels;

(iii) Has a handlebar;

(iv) Is equipped with a floorboard that can be used to stand on while riding the electric motorized scooter;

(v) Is powered by an electric motor; and

(vi) Has a maximum speed of twenty miles per hour (20 m.p.h.) with or without human propulsion on a paved level surface.

(B) "Electric motorized scooter" does not include:

(i) A motorcycle, an electric bicycle, an electric personal assisted mobility device, a motor-driven cycle, a motorized bicycle as defined in § 27-20-101, or a moped; or

(ii) An electric bicycle under § 27-51-1702;

(2) "Scooter-share operator" means a person or company offering a shared scooter for hire;

(3) "Scooter-share program" means a service in which a shared scooter is made available to use for hire; and

(4) "Shared scooter" means an electric motorized scooter offered for hire.

History. Acts 2019, No. 1015, § 1.

27-51-1903. Operation of an electric motorized scooter.

An electric motorized scooter shall not be operated:

(1) By a person under sixteen (16) years of age; or

(2) At a speed greater than fifteen miles per hour (15 m.p.h.).

History. Acts 2019, No. 1015, § 1.

27-51-1904. Shared scooter — Insurance required.

(a)(1) A shared scooter shall bear a unique alphanumeric identification number.

(2) The alphanumeric identification number shall be:

(A) Visible from a distance of five feet (5') and not be covered by a branding or other marking; and

(B) Used throughout the state, including by a local authority, to identify the shared scooter.

(b) A scooter-share operator shall carry the following insurance coverage dedicated exclusively for operation of a shared scooter:

(1) Commercial general liability insurance coverage with a limit of no less than one million dollars ($1,000,000) for each occurrence and five million dollars ($5,000,000) aggregate;

(2) Umbrella or excess liability coverage with a limit of no less than five million dollars ($5,000,000) for each occurrence and five million dollars ($5,000,000) aggregate; and

(3) Workers' compensation coverage as required by law.

History. Acts 2019, No. 1015, § 1.

27-51-1905. Local authority regulation of electric motorized scooters.

(a) Except as otherwise provided by law, a local authority may establish reasonable standards, rules, or regulations providing for the:

(1) Safe operation of electric motorized scooters; and

(2) Presence of electric motorized scooters on public property.

(b) A local authority may require a scooter-share operator to provide the local authority anonymized fleet and ride activity data for all trips starting or ending within the jurisdiction of the local authority and all ride activity resulting in an accident report provided that, to ensure individual privacy, the anonymized fleet and ride activity data is:

(1) Provided to a local authority through an application programming interface, subject to the scooter-share operator's license agreement for the interface, in compliance with a national data format standard such as the mobility data specification;

(2) Treated as trade secret and proprietary business information;

(3)(A) Considered personally identifiable information.

(B) The anonymized fleet and ride activity data shall not be disclosed pursuant to public records requests received by the local authority without prior aggregation or anonymization to protect individual privacy; and

(4) Released to law enforcement if required by state or federal law.

History. Acts 2019, No. 1015, § 1.

Subchapter 20 — Autonomous Vehicles

SECTION.
27-51-2001. Autonomous vehicle program — Definitions.
27-51-2002. Operation of autonomous vehicle.
27-51-2003. Operation of on-demand driverless capable vehicle network.
27-51-2004. Licensing requirements.
27-51-2005. Controlling authority.
27-51-2006. Liability.

Effective Dates. Acts 2019, No. 468, § 2: Mar. 14, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that to foster innovation and the increased use of technology in Arkansas's transportation system, autonomous vehicle and fully autonomous vehicle testing and operation is necessary. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health,

and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 1052, § 2: Apr. 16, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that autonomous vehicles may begin operating on public streets, roads, and highways as soon as March 14, 2019; that there may be an issue with negotiating railroad crossings if an exemption is not granted for autonomous vehicles by the Arkansas Department of Transportation; and that railroad companies and the department need to be aware of this issue and work together to resolve this potential issue for the safety of railroad and motor vehicle traffic. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

27-51-2001. Autonomous vehicle program — Definitions.

As used in this subchapter:

(1) "Automated driving system" means the hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis, regardless of whether the automated driving system is limited to a specific operational design domain;

(2) "Autonomous vehicle" means a vehicle equipped with an automated driving system that can drive the vehicle for any duration of time without the active physical control or monitoring of a human operator;

(3)(A) "Dynamic driving task" means the real-time operational and tactical functions required to operate a vehicle in on-road traffic, including without limitation the operational functions of:

(i) Lateral vehicle motion control via steering;

(ii) Longitudinal motion control via acceleration and deceleration;

(iii) Monitoring of the driving environment using object and event detection, recognition, classification, and response preparation;

(iv) Object and event response execution;

(v) Maneuver planning; and

(vi) Lighting and signaling operation designed to enhance conspicuity of the vehicle.

(B) "Dynamic driving task" does not include the strategic functions of:

(i) Trip scheduling; or

(ii) Selection of destinations and waypoints;

(4) "Fully autonomous vehicle" means a vehicle equipped with an automated driving system designed to function as a level four-"high automation" or level five-"full automation" system under Society of Automobile Engineers Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles and may be designed to function solely by use of the automated driving system or,

when the automated driving system is not engaged, to permit operation by a human operator;

(5) "Human operator" means an individual who operates a vehicle by manually controlling the:

(A) Brake;

(B) Accelerator pedal;

(C) Steering wheel; or

(D) Transmission gear selection;

(6) "Minimal risk condition" means a low-risk operating mode in which a fully autonomous vehicle operating without a human operator is brought to a complete stop upon experiencing a failure of the vehicle's automated driving system that renders the vehicle unable to perform the entire dynamic driving task;

(7) "On-demand driverless capable vehicle network" means a transportation service network that uses a software application or other digital means to dispatch autonomous vehicles or fully autonomous vehicles for purposes of transporting persons or goods, including without limitation vehicles used for:

(A) For-hire transportation;

(B) The transportation of multiple passengers who agree to share the ride in whole or in part; or

(C) Public transportation;

(8) "Operational design domain" means a description of the specific operating domain in which an automated driving system is designed to properly operate, including without limitation:

(A) Roadway types;

(B) Speed range;

(C) Environmental conditions; and

(D) Other domain constraints;

(9) "Person" means every natural person, firm, copartnership, association, corporation, or any political subdivision of the State of Arkansas, individually or collectively, including all counties, municipal corporations, public transit authorities, school districts, and special improvement districts; and

(10) "Remote operator" means an individual who is:

(A) Able to provide remote assistance to a fully autonomous vehicle in driverless operation; or

(B) Not seated in a position to manually control a vehicle's:

(i) Brake;

(ii) Accelerator pedal;

(iii) Steering wheel; or

(iv) Transmission gear selection.

History. Acts 2019, No. 468, § 1; 2021, No. 619, § 1.

Amendments. The 2021 amendment added the definitions for "Human operator", "On-demand driverless capable vehicle network", and "Remote operator".

27-51-2002. Operation of autonomous vehicle.

(a) An autonomous vehicle or a fully autonomous vehicle may be operated in this state under an autonomous vehicle program approved by the State Highway Commission.

(b) An autonomous vehicle program shall include without limitation the following:

(1) A statement of the commercial purpose of the autonomous vehicle program;

(2) Proof that the autonomous vehicle program complies with the minimum liability insurance coverage requirements for a motor carrier of property under 49 C.F.R. § 387.9 as it existed on January 1, 2021;

(3) A statement acknowledging that:

(A) The autonomous vehicle or fully autonomous vehicle is capable of complying with all applicable traffic and motor vehicle safety laws of this state and rules adopted by the Office of Motor Vehicle, including without limitation the laws and rules concerning the capability to safely negotiate railroad crossings, if applicable;

(B) The fully autonomous vehicle is capable of achieving a minimal risk condition if a failure of the automated driving system occurs that renders the automated driving system unable to perform the entire dynamic driving task;

(C) The autonomous vehicle or fully autonomous vehicle meets Federal Motor Vehicle Safety Standards and Regulations, 49 C.F.R. Part 571, as it existed on January 1, 2021, for the vehicle's model year, except to the extent an exemption has been granted under applicable federal law, and all other applicable safety standards and performance requirements stated in state and federal law and rules adopted by the commission; and

(D) The remote operator of a fully autonomous vehicle involved in a motor vehicle accident is capable of meeting the requirements of §§ 27-53-101, 27-53-102, and 27-53-105; and

(4) A description of how a fully autonomous vehicle is capable of meeting the requirement of subdivision (b)(3)(D) of this section.

(c) For the purposes of this subchapter, a person may operate a fully autonomous vehicle that is not equipped with:

(1) Seat belts, unless transporting persons as required by § 27-37-701 et seq.;

(2) A steering wheel; or

(3) A rearview mirror.

(d) An autonomous vehicle or fully autonomous vehicle shall be registered and titled as required under the Motor Vehicle Administration, Certificate of Title, and Antitheft Act, § 27-14-101 et seq.

History. Acts 2019, No. 468, § 1; 2019, No. 1052, § 1; 2021, No. 619, § 2.

Amendments. The 2019 amendment by No. 1052 redesignated (b)(3)(A) as (b)(3)(A)(i) and added "including without limitation ... by the Arkansas Department of Transportation"; and added (b)(3)(A)(ii).

The 2021 amendment substituted "program" for "pilot program" in (a), the introductory language of (b), and (b)(1); deleted

former (a)(2); rewrote (b)(2) and (b)(3)(A); substituted "minimal risk condition" for "reasonably safe state" in (b)(3)(B); inserted (b)(3)(C), and redesignated former (b)(3)(C) as (b)(3)(D); added "The remote operator of" in (b)(3)(D); substituted "(b)(3)(D)" for "(b)(3)(C)" in (b)(4); and rewrote (c) and (d).

27-51-2003. Operation of on-demand driverless capable vehicle network.

(a) A person may operate an on-demand driverless capable vehicle network in the state.

(b) An on-demand driverless capable vehicle network may connect a passenger or goods to a fully autonomous vehicle either exclusively or as part of a digital network that also connects passengers or goods to human drivers who provide transportation services in vehicles that are not fully autonomous vehicles.

History. Acts 2021, No. 619, § 3.

27-51-2004. Licensing requirements.

(a) A human operator of an autonomous vehicle or fully autonomous vehicle is required to have a valid driver's license for the class of vehicle being operated.

(b) A remote operator of a fully autonomous vehicle is required to have a valid driver's license for the class of vehicle being operated.

History. Acts 2021, No. 619, § 3.

27-51-2005. Controlling authority.

(a) Except as otherwise provided by law, the State Highway Commission shall implement the laws governing autonomous vehicles and fully autonomous vehicles under this subchapter.

(b) The commission shall adopt rules necessary for the implementation of this subchapter.

(c) Except as otherwise provided by law, a local entity may not impose additional requirements on autonomous vehicles or fully autonomous vehicles, including without limitation:

(1) Requirements providing for the safe operation of autonomous vehicles or fully autonomous vehicles; or

(2) The imposition of a tax on:

(A) An autonomous vehicle or fully autonomous vehicle; or

(B) The operation of an autonomous vehicle or fully autonomous vehicle.

(d) This subchapter does not limit the applicability of the Arkansas Motor Vehicle Commission Act, § 23-112-101 et seq.

History. Acts 2021, No. 619, § 3.

27-51-2006. Liability.

(a) The liability for an accident involving an autonomous vehicle or fully autonomous vehicle is determined in accordance with applicable state or federal law.

(b) However, the original manufacturer of a vehicle converted by a third party into an autonomous vehicle or fully autonomous vehicle is not liable in any legal action.

History. Acts 2021, No. 619, § 3.

Subchapter 21 — Personal Delivery Device

SECTION.
27-51-2101. Title.
27-51-2102. Definitions.
27-51-2103. Operation of a personal delivery device.
27-51-2104. Operation on a street or road.
27-51-2105. Rules in pedestrian area.
27-51-2106. Personal delivery device operator.
27-51-2107. Unique identifying number.
27-51-2108. Insurance requirement.
27-51-2109. Licensing and registration.
27-51-2110. Restriction on transport.
27-51-2111. Local ordinances.

27-51-2101. Title.

This subchapter shall be known and may be cited as the "Personal Delivery Device Act".

History. Acts 2021, No. 926, § 1.

27-51-2102. Definitions.

As used in this subchapter:

(1) "Eligible entity" means a corporation, partnership, association, firm, sole proprietorship, or other entity engaged in a business that includes the operation of a personal delivery device;

(2) "Pedestrian area" means a sidewalk, crosswalk, school crosswalk, or school crossing zone;

(3)(A) "Personal delivery device" means an electrically powered device:

(i) Manufactured for the transport of cargo and goods;

(ii) That weighs five hundred pounds (500 lbs.) or less, excluding the cargo the personal delivery device is transporting;

(iii) Equipped with automated driving technology, including hardware and software, that enables the operation of the personal delivery device with or without the active control or monitoring of a person; and

(iv) Equipped with a braking system that enables the personal delivery device to come to a controlled stop.

(B) "Personal delivery device" does not include:

(i) A motor vehicle under § 27-49-114; or

(ii) An autonomous vehicle under § 27-51-2001; and

(4)(A) "Personal delivery device operator" means an employee or agent of an eligible entity who exercises active physical control over, or monitoring of, the navigation and operation of a personal delivery device.

(B) "Personal delivery device operator" does not include:

(i) With respect to a delivery or other service rendered by a personal delivery device, the person who requests the delivery or service; or

(ii) A person who only arranges for and dispatches a personal delivery device for a delivery or other service.

History. Acts 2021, No. 926, § 1.

27-51-2103. Operation of a personal delivery device.

(a) A personal delivery device may be operated at a maximum speed of:

(1) Ten miles per hour (10 m.p.h.) when operated in a pedestrian area; or

(2) Twenty miles per hour (20 m.p.h.) when operated on a:

(A) County street or road; or

(B) Municipal street or road.

(b) A personal delivery device may not be operated:

(1) On:

(A) An interstate highway;

(B) A controlled access highway;

(C) A state highway; or

(D) A street or road where a posted speed limit is more than forty-five miles per hour (45 m.p.h.); or

(2) In a manner that:

(A) Unreasonably interferes with motor vehicles or traffic; or

(B) Blocks a public right-of-way.

(c) If a personal delivery device is operated between sunset and sunrise, the personal delivery device shall be equipped with a lighted lamp on both the front and rear of the personal delivery device that is visible:

(1) On all sides of the personal delivery device in clear weather from a distance of at least five hundred feet (500'); and

(2) From the front and rear of the personal delivery device when directly in front of low beams of headlights on a motor vehicle.

History. Acts 2021, No. 926, § 1.

27-51-2104. Operation on a street or road.

A personal delivery device operated on a street or road shall be operated:

(1) As close as practicable to the right outside edge of a street or road; and

(2) In the direction of authorized traffic movement.

History. Acts 2021, No. 926, § 1.

27-51-2105. Rules in pedestrian area.

A personal delivery device has the rights and obligations applicable to a pedestrian under § 27-51-1201 et seq. except that a personal delivery device shall yield the right-of-way to a pedestrian.

History. Acts 2021, No. 926, § 1.

27-51-2106. Personal delivery device operator.

A personal delivery device operator shall operate a personal delivery device in a manner that ensures the personal delivery device:

(1) Complies with traffic or pedestrian control devices and signals; and

(2) Does not unreasonably interfere with pedestrians or traffic.

History. Acts 2021, No. 926, § 1.

27-51-2107. Unique identifying number.

An eligible entity shall equip each personal delivery device with a:

(1) Marker that clearly identifies the name and contact of the eligible entity responsible for the operation of the personal delivery device; and

(2) Unique identifying number.

History. Acts 2021, No. 926, § 1.

27-51-2108. Insurance requirement.

An eligible entity shall maintain an insurance policy for each personal delivery device that includes general liability coverage of not less than one hundred thousand dollars ($100,000) for damages arising from the operation of a personal delivery device by the eligible entity or personal delivery device operator.

History. Acts 2021, No. 926, § 1.

27-51-2109. Licensing and registration.

A personal delivery device is exempt from the licensing and registration requirements under § 27-14-601 et seq.

History. Acts 2021, No. 926, § 1.

27-51-2110. Restriction on transport.

An eligible entity may not use a personal delivery device to transport hazardous material that is:

(1) Regulated under the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq., as it existed on January 1, 2021; and

(2) Required to be placarded under 49 C.F.R. Part 172.

History. Acts 2021, No. 926, § 1.

27-51-2111. Local ordinances.

(a) To protect the health and safety of its citizens, a county or municipality may pass an ordinance to prohibit the operation of a personal delivery device upon any pedestrian area, street, or road within its jurisdiction where operation of a personal delivery device would constitute a safety hazard.

(b) A county or municipality shall not pass an ordinance relating to the:

(1) Design, manufacture, maintenance, certification, licensing, registration, taxation, assessment, or insurance requirement of a personal delivery device; or

(2) The types of cargo and goods that may be transported by a personal delivery device.

History. Acts 2021, No. 926, § 1.

CHAPTER 52

TRAFFIC-CONTROL DEVICES

SUBCHAPTER.

1. General Provisions.

Subchapter 1 — General Provisions

SECTION.

27-52-103. Obedience to official traffic control devices required.
27-52-110. Automated enforcement device operated by county government or department of state government operating outside municipality — Definitions.
27-52-111. Automated enforcement device operated by municipality or department of state government operating within boundaries of municipality — Definitions.

27-52-103. Obedience to official traffic control devices required.

The driver of a motor vehicle or operator of a streetcar shall obey the instructions of any official traffic control device placed in accordance with the provisions of this chapter unless he or she is:

(1) Directed by a police officer; or

(2) Yielding the right-of-way to a funeral procession as required by § 27-51-1409.

History. Acts 1937, No. 300, § 31; Pope's Dig., § 6689; A.S.A. 1947, § 75-504; Acts 2017, No. 816, § 5.

Amendments. The 2017 amendment inserted "traffic control" in the section heading; added (2); and rewrote the existing language.

27-52-110. Automated enforcement device operated by county government or department of state government operating outside municipality — Definitions.

(a) As used in this section:

(1) "Automated enforcement device" means a system operated by a county government or a department of state government that is operating outside of a municipality that:

(A) Uses a photo-radar device that is capable of detecting a speeding violation; and

(B) Photographs or records an image of the vehicle used in committing the violation, the operator of the vehicle, or the license plate of the vehicle; and

(2) "Municipality" means a city of the first class, a city of the second class, or an incorporated town.

(b) Except as used under subsection (c) of this section, an automated enforcement device shall not be used by a law enforcement agency of a county or a department of state government that is operating outside of a municipality to detect or enforce:

(1) A violation of the traffic laws, rules, or regulations of the State of Arkansas; or

(2) An ordinance of the municipality.

(c)(1) A county government or a department of state government that is operating outside of a municipality may use an automated enforcement device to detect and enforce a violation of traffic laws or ordinances:

(A) In a school zone; or

(B) At a railroad crossing.

(2) If a county or a department of state government that is operating outside of a municipality uses an automated enforcement device, then a certified law enforcement officer must:

(A) Be present with the automated enforcement device; and

(B) Issue the citation to the violator at the time and place of the violation.

(d) This section shall not prevent the Arkansas Highway Police Division of the Arkansas Department of Transportation from using automated enforcement devices to enforce state or federal motor carrier laws.

History. Acts 2005, No. 1451, § 1; 2017, No. 707, § 354; 2019, No. 315, § 3158.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (d).

The 2019 amendment inserted "rules" in (b)(1).

27-52-111. Automated enforcement device operated by municipality or department of state government operating within boundaries of municipality — Definitions.

(a) As used in this section:

(1) "Automated enforcement device" means a system operated by a municipality or a department of state government that is operating within the boundaries of the municipality that:

(A) Uses a photo-radar device that is capable of detecting a speeding violation; and

(B) Photographs or records an image of the vehicle used in committing the violation, the operator of the vehicle, or the license plate of the vehicle; and

(2) "Municipality" means a city of the first class, a city of the second class, or an incorporated town.

(b) Except as used under subsection (c) of this section, an automated enforcement device shall not be used by a law enforcement agency of a municipality or a department of state government that is operating within the boundaries of the municipality to detect or enforce:

(1) A violation of the traffic laws, rules, or regulations of the State of Arkansas; or

(2) An ordinance of the municipality.

(c)(1) A municipality or a department of state government that is operating within the boundaries of the municipality may use an automated enforcement device to detect and enforce a violation of traffic laws or ordinances:

(A) In a school zone; or

(B) At a railroad crossing.

(2) If a municipality or a department of state government that is operating within the boundaries of the municipality uses an automated enforcement device, then a certified law enforcement officer must:

(A) Be present with the automated enforcement device; and

(B) Issue the citation to the violator at the time and place of the violation.

(d) This section shall not prevent the Arkansas Highway Police Division of the Arkansas Department of Transportation from using automated enforcement devices to enforce state or federal motor carrier laws.

History. Acts 2005, No. 1451, § 2; 2017, No. 707, § 355; 2019, No. 315, § 3159.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (d).

The 2019 amendment inserted "rules" in (b)(1).

CHAPTER 53

ACCIDENTS

SUBCHAPTER.

1. General Provisions.
2. Accident Reports.
3. Investigations.

Subchapter 1 — General Provisions

SECTION.
27-53-101. Requirements in accidents involving death or personal injuries — Definitions.
27-53-102. Accidents involving damage only to vehicle or personal property of another person — Removal of vehicle.
27-53-104. Notification if unattended vehicle is struck.
27-53-105. Striking fixtures or other property upon highway.

27-53-101. Requirements in accidents involving death or personal injuries — Definitions.

(a) As used in this section:

(1) "Physical injury" means the:

(A) Impairment of physical condition;

(B) Infliction of substantial pain; or

(C) Infliction of bruising, swelling, or a visible mark associated with physical trauma; and

(2) "Serious physical injury" means physical injury that:

(A) Creates a substantial risk of death; or

(B) Causes protracted disfigurement, protracted impairment of health, or loss or protracted impairment of the function of any bodily member or organ.

(b)(1) The driver of a vehicle involved in an accident resulting in physical injury or serious physical injury to or death of any person shall immediately stop the vehicle at the scene of the accident or as close as possible to the scene of the accident, but shall then immediately return to and remain at the scene of the accident until he or she has fulfilled the requirements of § 27-53-103.

(2) Every such stop shall be made without obstructing traffic more than is necessary.

(3) An accident of this nature shall include all accidents which occur upon the streets or highways, upon the parking area of private business establishments, or elsewhere throughout the state.

(c) If a person fails to comply with subsection (b) of this section or with § 27-53-103 and the accident results in physical injury to another person, he or she upon conviction is guilty of a Class D felony.

(d) The driver of a vehicle who is involved in an accident resulting in serious physical injury to or the death of any person and who has knowingly or recklessly failed to comply with subsection (b) of this section is upon conviction guilty of a Class B felony.

(e) The Secretary of the Department of Finance and Administration shall revoke the driver's license or commercial driver's license of the person convicted under this section.

History. Acts 1937, No. 300, § 36; Pope's Dig., § 6694; Acts 1981, No. 918, § 1; A.S.A. 1947, § 75-901; Acts 1987, No. 88, § 1; 1995, No. 659, § 4; 2021, No. 558, § 1; 2021, No. 1035, § 1.

Publisher's Notes. Acts 2021, No.

1035, § 1 specifically amended this section as amended by Acts 2021, No. 558, § 1.

Amendments. The 2021 amendment by No. 558 added (a) and redesignated former (a) and (b) as (b) and (c); in (b)(1), substituted "physical injury, or serious physical injury" for "injury", deleted "thereto" following "close", inserted "to the scene of the accident", and deleted "in every event shall" preceding "remain"; rewrote (c); and made a stylistic change.

The 2021 amendment by No. 1035 redesignated (c)(1) as (c) and rewrote it; inserted (d); redesignated (c)(2) as (e); and updated an internal reference.

CASE NOTES

Analysis

Miranda Warnings.
Sufficiency Review.

Miranda Warnings.

Although defendant was required to remain at the crash scene, such compulsion was not akin to the restraint of a formal arrest, and defendant was not entitled to a Miranda warning before the investigating officer asked him if he was the driver at the time of the crash and if he had previously consumed alcohol; defendant was not restrained, and he was not in custody for purposes of Miranda merely because of his legal obligation to stay at the scene, and as his statements were not custodial, Miranda warnings were not necessary. Cain v. State, 2016 Ark. App. 398, 500 S.W.3d 786 (2016).

Sufficiency Review.

Corporal's testimony was substantial evidence that appellant was the driver of the vehicle, as the corporal spoke with the driver and recognized appellant as the driver, nothing contradicted the corporal's identification of appellant, and there could be no inference that appellant was not still the driver at the time of the accident, as a witness testified that he never lost sight of appellant's vehicle during the chase, and thus the court affirmed appellant's conviction for leaving the scene of an accident. Flemons v. State, 2013 Ark. App. 280 (2013).

Appellant's sufficiency argument was preserved only for his conviction of leaving the scene of an accident, as he did not challenge his identity in his directed verdict motion for the fleeing apprehension charge. Flemons v. State, 2013 Ark. App. 280 (2013).

27-53-102. Accidents involving damage only to vehicle or personal property of another person — Removal of vehicle.

(a)(1) The driver of a vehicle involved in an accident resulting only in damage to a vehicle that is driven or attended by any person or to the personal property of another person shall immediately stop the vehicle at the scene of the accident or as close to the accident as possible, and shall immediately return to and remain at the scene of the accident until he or she has fulfilled the requirements of § 27-53-103.

(2) Every stop shall be made without obstructing traffic more than is necessary.

(b) An accident of this nature shall include all accidents that occur upon the streets or highways, upon the parking area of private business establishments, or elsewhere throughout the state.

(c)(1) The driver shall remove his or her vehicle from the roadway, except that the driver may leave the vehicle in the roadway if the vehicle is disabled or there is a visible or apparent injury to a person.

(2) The removal of a vehicle from the roadway under this section shall not constitute an admission of liability nor a waiver of a claim for personal injury.

(d) A person who knowingly violates this section is upon conviction guilty of a:

(1) Class A misdemeanor if the amount of actual damage is one thousand dollars ($1,000) or more but less than ten thousand dollars ($10,000);

(2) Class D felony if the amount of actual damage is ten thousand dollars ($10,000) or more; or

(3) Class B misdemeanor if otherwise committed.

History. Acts 1937, No. 300, § 37; Pope's Dig., § 6695; A.S.A. 1947, § 75-902; Acts 1987, No. 88, § 2; 1987, No. 598, § 1; 2017, No. 615, § 1.

Amendments. The 2017 amendment inserted "or personal property of another person" in the section heading; in (a)(1), inserted "or to the personal property of another person", substituted "as close to the accident as possible, and" for "as close thereto as possible, but", and deleted "in every event shall" preceding "remain"; substituted "Every stop" for "Every such stop" in (a)(2); added (d); and made stylistic changes.

27-53-103. Duty to give information, remain at the scene of an accident, and render aid.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Breanna Trombley, Note: Criminal Law — No Stitches for Snitches: The Need for a Duty-to-Report Law in Arkansas, 34 U. Ark. Little Rock L. Rev. 813 (2012).

CASE NOTES

Sufficiency Review.

Corporal's testimony was substantial evidence that appellant was the driver of the vehicle, as the corporal spoke with the driver and recognized appellant as the driver, nothing contradicted the corporal's identification of appellant, and there could be no inference that appellant was not still the driver at the time of the accident, as a witness testified that he never lost sight of appellant's vehicle during the chase, and thus the court affirmed appellant's conviction for leaving the scene of an accident. Flemons v. State, 2013 Ark. App. 280 (2013).

Appellant's sufficiency argument was preserved only for his conviction of leaving the scene of an accident, as he did not challenge his identity in his directed verdict motion for the fleeing apprehension charge. Flemons v. State, 2013 Ark. App. 280 (2013).

27-53-104. Notification if unattended vehicle is struck.

(a) The driver of a vehicle which collides with another vehicle that is unattended shall immediately stop and either locate and notify the operator or owner of the vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name, address, and contact information of the driver and of the owner

of the vehicle doing the striking and a statement of the circumstances thereof.

(b) An accident of this nature shall include all accidents which occur upon the streets or highways, upon the parking area of private business establishments, or elsewhere throughout the state.

History. Acts 1937, No. 300, § 39; Pope's Dig., § 6697; A.S.A. 1947, § 75-904; Acts 1987, No. 88, § 3; 2017, No. 615, § 2.

Amendments. The 2017 amendment, in (a), substituted "another vehicle" for "any vehicle", deleted "shall then and there" following "stop and", and substituted "name, address, and contact information" for "name and address"; and made stylistic changes.

27-53-105. Striking fixtures or other property upon highway.

(a)(1)(A) The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of the property of that fact and of his or her name and address and of the license plate number of the vehicle he or she is driving.

(B) Reasonable steps may include leaving the person's contact information with the damaged vehicle or personal property if the owner of the damaged vehicle or personal property is not present at the accident.

(2) Upon request and if available, the driver shall exhibit his or her driver's license or commercial driver's license and shall make report of the accident when and as required in § 27-53-202.

(b) An accident of this nature shall include all accidents which occur upon the streets or highways, upon the parking area of private business establishments, or elsewhere throughout the state.

History. Acts 1937, No. 300, § 40; Pope's Dig., § 6698; A.S.A. 1947, § 75-905; Acts 1987, No. 88, § 4; 1995, No. 659, § 6; 2017, No. 615, § 3.

Amendments. The 2017 amendment inserted "or other property" in the section heading; redesignated former (a) as (a)(1)(A) and (a)(2); in (a)(1)(A), inserted "or other property" and substituted "license plate for "registration"; and added (a)(1)(B).

Subchapter 2 — Accident Reports

SECTION.
27-53-202. Reports of accidents required — Supplemental reports.
27-53-206. Approved forms to be used.
27-53-207. Tabulation and analysis.
27-53-208. Use of accident and supplemental reports.
27-53-209. Reports open to public inspection.
27-53-210. Copies — Fee.
27-53-211. Inspection of accident reports for safety improvements.

Effective Dates. Acts 2013, No. 1229, § 7: Jan. 1, 2015.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is

found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

27-53-202. Reports of accidents required — Supplemental reports.

(a) The driver of a vehicle involved in an accident resulting in injury to or death of any person or total property damage to an apparent extent of one thousand dollars ($1,000) or more shall notify the nearest law enforcement agency immediately. All persons involved in the accident shall make themselves readily available to the investigating agency's officer or officers.

(b)(1)(A) In addition to the requirements of subsection (a) of this section, the driver of any taxicab, motor bus, or other motor vehicle carrying passengers for hire involved in an accident resulting in injury to or death of any person shall notify the nearest law enforcement agency immediately.

(B) The driver of any taxicab, motor bus, or other motor vehicle carrying passengers for hire shall make himself or herself readily available to the investigating agency's office or officers.

(2)(A) Except as provided under subdivision (b)(2)(B) of this section, the accident report shall contain a full and complete list of the names and addresses of all passengers occupying the taxicab, bus, or other vehicle at the time of the accident.

(B) The name and address of a minor occupant who is under eighteen (18) years of age shall be included in the report, but the name and address of the minor occupant shall:

(i) Not be open to public inspection under this subchapter or the Freedom of Information Act of 1967, § 25-19-101 et seq., unless the requestor is:

(a) The parent, legal guardian, or legal custodian of the minor occupant; or

(b) A representative of an insurance company that insures a person involved in the accident; and

(ii) Be redacted on copies including without limitation written, photostatic, or electronic copies, produced under this subchapter or the Freedom of Information Act of 1967, § 25-19-101 et seq., unless the requestor is identified in subdivision (b)(2)(B)(i) of this section.

(c) The Division of Arkansas State Police may require any driver of a vehicle involved in an accident that must be reported under this section

to file supplemental reports whenever the original report is insufficient in the opinion of the division and may require witnesses of an accident to render reports to the division.

(d) [Repealed.]

(e) Information contained in any other accident report is governed by subdivision (b)(2)(B) of this section.

History. Acts 1937, No. 300, § 41; Pope's Dig., § 6699; Acts 1949, No. 464, § 1; A.S.A. 1947, § 75-906; Acts 1989, No. 489, § 1; 1995, No. 570, § 1; 1995, No. 659, § 2; 2003, No. 333, § 1; 2013, No. 1229, §§ 1, 2; 2015, No. 706, § 1.

A.C.R.C. Notes. Subdivision (b)(3) was omitted by Acts 2013, No. 1229, § 1, without being stricken to indicate its repeal.

CASE NOTES

Driver's Privacy Protection Act.

Unredacted access to certain accident reports should have been granted to an attorney seeking clients for his law practice because the Driver's Privacy Protection Act, 18 U.S.C. §§ 2721–2725, did not prohibit information contained in such reports from being released under the Freedom of Information Act. A vehicle accident report is not included in the definition of a "motor vehicle record," regardless of whether, as a matter of convenience, some of the information included in an accident report may be taken from or verified by a database maintained by the Office of Motor Vehicles. Moreover, "personal information" does not include information on vehicular accidents. Ark. State Police v. Wren, 2016 Ark. 188, 491 S.W.3d 124 (2016), cert. denied, — U.S. —, 137 S. Ct. 623, 196 L. Ed. 2d 515 (2017).

27-53-206. Approved forms to be used.

(a)(1) The Division of Arkansas State Police shall prepare and upon request supply to police departments, coroners, sheriffs, and other suitable agencies or individuals forms for accident reports required under this subchapter.

(2)(A) The reports shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing, and the persons and vehicles involved.

(B) Every accident report shall include provisions which inquire about whether or not the accident was caused as a result of the driver's lapse of consciousness, epileptic condition, or similar nervous disorder, or an episode of marked mental confusion or as a result of any physical disability, disease, or disorder or any other medical condition of the driver.

(b) Every required accident report shall be made on a form approved by the division.

(c) [Repealed.]

History. Acts 1937, No. 300, § 43; Pope's Dig., § 6701; A.S.A. 1947, § 75-908; Acts 1989, No. 489, § 2; 1995, No. 570, § 2; 2015, No. 706, § 2.

27-53-207. Tabulation and analysis.

(a) The Division of Arkansas State Police shall tabulate and may analyze all accident reports and shall publish annually, or at more frequent intervals, statistical information based thereon as to the number and circumstances of traffic accidents.

(b) After collecting the data required by subsection (a) of this section, the division shall further report to the Arkansas Department of Transportation the data collected and maintained by the division relating to all accidents occurring within the preceding twelve-month period on the state highway system and local roads.

History. Acts 1937, No. 300, § 46; Pope's Dig., § 6704; A.S.A. 1947, § 75-911; Acts 1999, No. 1275, § 1; 2017, No. 618, § 1; 2017, No. 707, § 356.

Amendments. The 2017 amendment by No. 618 rewrote (b).

The 2017 amendment by No. 707, in (b), substituted "Department of Arkansas State Police" for "department" and substituted "Department of Transportation" for "State Highway and Transportation Department".

27-53-208. Use of accident and supplemental reports.

(a)(1) All required accident reports and supplemental reports shall be without prejudice to the individual so reporting and are for the use of the Division of Arkansas State Police.

(2)(A) The division may disclose the identity of a person involved in an accident when the identity is not otherwise known or when the person denies his or her presence at the accident.

(B) Except as provided under § 27-53-202(b)(2)(B), the division may disclose to any person involved in the accident or to his or her attorney or agent the name and address of any occupants and passengers in any of the vehicles involved in the accident as may be shown by the reports.

(b)(1) No report shall be used as evidence in any civil or criminal trial arising out of an accident.

(2) The division shall furnish the report upon the demand of any person who has made or claims to have made the report or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the division solely to prove a compliance or a failure to comply with the requirement that the report be made to the division.

History. Acts 1937, No. 300, § 45; Pope's Dig., § 6703; Acts 1949, No. 464, § 3; A.S.A. 1947, § 75-910; Acts 2013, No. 1229, § 3.

Effective Dates. Acts 2013, No. 1229, § 7: Jan. 1, 2015.

27-53-209. Reports open to public inspection.

Except as provided under § 27-53-202(b)(2)(B), all motor vehicle accident reports made by the Division of Arkansas State Police and its

records of traffic violations shall be open to public inspection at all reasonable times.

History. Acts 1953, No. 90, § 1; 1963, No. 272, § 1; A.S.A. 1947, § 75-916; Acts 2013, No. 1229, § 4.

Effective Dates. Acts 2013, No. 1229, § 7: Jan. 1, 2015.

27-53-210. Copies — Fee.

(a) Except as provided under § 27-53-202(b)(2)(B), photostatic or written copies of reports and records may be obtained from the Director of the Division of Arkansas State Police, or from his or her duly designated assistants, by any person who makes a written request for them to the Division of Arkansas State Police.

(b)(1) In order to partially reimburse the division for the cost of making photostatic or written copies of motor vehicle accident reports and copies of records of traffic violations, there shall be charged a fee of ten dollars ($10.00) for each copy of a basic accident report and a fee of one dollar and fifty cents ($1.50) per page for each copy of a supplemental report.

(2) All funds collected under this subsection shall immediately be paid over by the division to the Treasurer of State and shall be credited by him or her as a special revenue to the Division of Arkansas State Police Fund.

(c)(1) In order to partially reimburse county and municipal law enforcement agencies for the cost of making copies of motor vehicle accident reports and copies of records of traffic violations, there shall be charged a fee of ten dollars ($10.00) for each copy of a basic accident report and a fee of one dollar and fifty cents ($1.50) per page for each copy of a supplemental report.

(2) All funds collected under this subsection shall be retained by the municipality or county for the support of the law enforcement agency.

History. Acts 1953, No. 90, §§ 1, 2; 1963, No. 272, §§ 1, 2; A.S.A. 1947, §§ 75-916, 75-917; Acts 1993, No. 606, § 1; 2005, No. 2158, § 1; 2013, No. 1229, § 5; 2019, No. 910, § 6049.

Amendments. The 2019 amendment, in (a), substituted "Division of Arkansas State Police" for "Department of Arkansas State Police" and for "department"; substituted "division" for "Department of Arkansas State Police" in (b)(1) and for the first occurrence in (b)(2); and substituted "Division of Arkansas State Police" for the second occurrence of "Department of Arkansas State Police" in (b)(2).

Effective Dates. Acts 2013, No. 1229, § 7: Jan. 1, 2015.

27-53-211. Inspection of accident reports for safety improvements.

(a)(1) It is the duty of the Arkansas Department of Transportation to inspect the data collected and maintained relating to an accident as reported to the department by the Division of Arkansas State Police under § 27-53-207(b).

(2) The inspections shall determine, within the judgment of department personnel, whether safety improvements, increased visibility, warning signs, traffic control devices, or any other safety improvements are necessary which could reduce or prevent the future occurrence of similar accidents at the same locations.

(b) The department shall develop a schedule for and implement those safety improvements considered necessary by the department under subdivision (a)(2) of this section.

History. Acts 1999, No. 1275, § 2; 2017, No. 618, § 2; 2017, No. 707, § 357.

Amendments. The 2017 amendment by No. 618 substituted "reports" for "scenes" in the section heading; redesignated (a) as (a)(1) and (a)(2); in (a)(1), substituted "inspect the data collected and maintained relating to an accident" for "inspect all accident locations on the state highway system in Arkansas" and deleted "where accidents which resulted in a human fatality occurred within the preceding twelve-month period and where two (2) or more accidents involving a personal bodily injury occurred at the same location" at the end; substituted "necessary" for "warranted" in (a)(2); in (b), substituted "considered necessary" for "deemed warranted" and added "under subdivision (a)(2) of this section"; and made stylistic changes.

The 2017 amendment by No. 707 redesignated (a) as (a)(1) and (a)(2); substituted "Department of Transportation" for "State Highway and Transportation Department" throughout the section; and made stylistic changes.

Subchapter 3 — Investigations

SECTION.
27-53-303. Jurisdiction and responsibilities of law enforcement officers.
27-53-304. Report forms.
27-53-305. Reports to be public records.

Effective Dates. Acts 2013, No. 1229, § 7: Jan. 1, 2015.

27-53-303. Jurisdiction and responsibilities of law enforcement officers.

(a) Within their jurisdictions, and cooperatively in overlapping jurisdictional situations such as the state highway extensions within municipal corporations, law enforcement officers of Arkansas are declared to be responsible for the investigation and reporting of all traffic accidents and the deaths, injuries, and property damage resulting therefrom.

(b) These responsibilities shall be generally as outlined:

(1) The federal interstate system — The Division of Arkansas State Police;

(2) The state highway system — The Division of Arkansas State Police and, within municipal corporations, the municipal police, except

that the Division of Arkansas State Police may investigate accidents on all streets, county roads, and state highways;

(3) The municipal streets within the boundaries of a municipal corporation which are not a part of the state highway system — The municipal police in cities of the first and second class and the municipal police or the county sheriff's department in all other municipalities; and

(4) The county road system — The sheriff of that county.

(c) The responsible investigating office shall make the investigation with all possible promptness, and the investigating officer shall file the report with the Division of Arkansas State Police within five (5) days subsequent to the actual investigation.

(d) [Repealed.]

History. Acts 1967, No. 246, § 3; A.S.A. 1947, § 75-924; Acts 1989, No. 489, § 3; 2021, No. 395, § 1.

Amendments. The 2021 amendment repealed (d).

27-53-304. Report forms.

(a) All traffic accident investigation reports shall be made upon forms prescribed, approved, and supplied by the Division of Arkansas State Police, with the concurrence of the Arkansas Department of Transportation.

(b) [Repealed.]

History. Acts 1967, No. 246, § 4; A.S.A. 1947, § 75-925; Acts 1989, No. 489, § 4; 2015, No. 706, § 3; 2017, No. 707, § 358.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department".

27-53-305. Reports to be public records.

(a) Except as provided under § 27-53-202(b)(2)(B), all traffic accident investigating officers' reports are public records and open to public inspection at all reasonable times.

(b) Photostatic or written copies of the reports may be obtained from the Division of Arkansas State Police in the same manner and for the same fees as prescribed by § 27-53-210 for the motor vehicle accident reports made by members of the division.

History. Acts 1967, No. 246, § 5; A.S.A. 1947, § 75-926; Acts 2013, No. 1229, § 6.

Effective Dates. Acts 2013, No. 1229, § 7: Jan. 1, 2015.

Subchapter 4 — Damage Claims

27-53-402. Failure to pay small damage claims.

CASE NOTES

Analysis

Attorney's Fees.
"Without Meritorious Defense."

Attorney's Fees.

Trial court did not abuse its discretion as to the amount of the attorney's fee awarded to a car owner on the owner's small-claims judgment for property damage incurred in a motor-vehicle accident because the court found a lack of credibility in the testimony by the owner's attorney that all of the claimed time for the attorney's fee was exclusively for the property damage aspect of the case. Moreover, the court found no evidence that the case precluded the attorney from any other employment or from accepting new cases. Bateman v. Heird, 2015 Ark. App. 524, 472 S.W.3d 142 (2015).

"Without Meritorious Defense."

Although the circuit court properly recognized that this section mandated that plaintiff be awarded a reasonable attorney's fee after defendant failed to put forth a meritorious defense showing why payment of plaintiff's small claim was not made within the 60 days allowed under this section, the circuit court abused its discretion by deciding on the amount of the attorney's fee before giving plaintiff the opportunity he requested to submit a fee petition, and by reiterating its decision without further explanation even after the fee petition was submitted. Bateman v. Heird, 2013 Ark. App. 671 (2013).

SUBTITLE 5. HIGHWAYS, ROADS, AND STREETS

CHAPTER 64

GENERAL PROVISIONS

SUBCHAPTER.

1. Miscellaneous Provisions.
2. Arkansas Highway Financing Act of 1999.
4. Arkansas Interstate Highway Financing Act of 2007.
5. Arkansas Highway Financing Act of 2011.

Subchapter 1 — Miscellaneous Provisions

SECTION.

27-64-101. Air rights over highways, roads, and streets — Agreements with private property owners.
27-64-103. Mowing, installing, and maintaining sprinkler system on rights-of-way by adjoining landowner.

27-64-101. Air rights over highways, roads, and streets — Agreements with private property owners.

The following are authorized to enter into leases, contracts, or other agreements with the owners of private property with respect to the owners' use of air rights over and above state highways, county roads, or streets of cities or towns, so long as the leases, contracts, or agreements do not impair the public use thereof and are not in violation

of any federal requirement with respect to any federal-aid funds involved in the construction or improvement of the highways, roads, or streets:

(1) The Arkansas Department of Transportation with respect to state highways;

(2) The county court of each county with respect to county roads of each respective county; and

(3) The governing bodies of cities and towns in this state with respect to city streets, alleys, and other public easements of cities and towns.

History. Acts 1967, No. 405, § 1; A.S.A. 1947, § 76-137; Acts 2017, No. 707, § 359.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (1).

27-64-103. Mowing, installing, and maintaining sprinkler system on rights-of-way by adjoining landowner.

(a)(1) The owners of properties which abut the right-of-way of interstate, federal-aid primary, state, or county roads or highways in this state may enter upon and mow grass, weeds, and other vegetation on the portion of the right-of-way adjoining the property unless the Arkansas Department of Transportation or the county has installed barriers designed to prohibit entry or unless the property owner has received notice from the department or the county restricting or prohibiting mowing grass, weeds, and other vegetation.

(2) The owner of a property which abuts a right-of-way of a state highway may, upon receipt of a permit from the department, install, use, and maintain a sprinkler system on the portion of the right-of-way adjoining the property unless the department has installed a barrier designed to prohibit entry.

(b) If an owner elects to mow grass, weeds, or other vegetation or installs, uses, or maintains a sprinkler system on the right-of-way adjoining his or her property, the owner shall do so at the owner's own risk and shall have no right or claim for damages against the department or any political subdivision of this state for loss of life, injury, or damage to his or her property while engaged in the mowing activity, or the installation, use, or maintenance of the sprinkler system.

(c) Subject to the limitations of subsections (a) and (b) of this section, the owner shall:

(1) Mow the grass, weeds, or other vegetation and install, use, and maintain the sprinkler system in a manner that does not obstruct or pose danger to motorists in their lawful use of the public road or highway; and

(2) Be liable for any loss, injury, or damage to the life, person, or property of others that is caused by any negligence in connection with mowing grass, weeds, or other vegetation or installing, using, or maintaining the sprinkler system on the highway right-of-way.

History. Acts 1983, No. 661, § 1; A.S.A. 1947, § 76-145; Acts 2015, No. 963, § 1; 2017, No. 707, § 360.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (a)(1).

Subchapter 2 — Arkansas Highway Financing Act of 1999

SECTION.
27-64-203. Definitions.
27-64-206. Election.
SECTION.
27-64-211. Sources of repayment.

27-64-203. Definitions.

The following terms, as used in this subchapter, shall have the meanings set forth in this section:

(1) "Act" means this Arkansas Highway Financing Act of 1999;

(2) "Bonds" means the "State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds" or "GARVEE bonds", as authorized in this subchapter;

(3) "Commission" means the State Highway Commission, created and existing pursuant to Arkansas Constitution, Amendment 42;

(4) "Debt service" means all amounts required for the payment of principal, interest on, and premium, if any, due with respect to the bonds in any fiscal year along with all associated costs, including the fees and costs of paying agents and trustees, remarketing agent fees, credit enhancement costs, and other amounts necessary in connection with the bonds;

(5) "Designated revenues" means:

(A) That portion designated by the commission of funds received or to be received from the federal government of the United States as federal highway assistance funding allocated to the state designated as federal highway interstate maintenance funds, and, if needed, that portion of national highway system funds authorized by State Highway Commission Minute Order 98-214 adopted September 22, 1998; and

(B) Revenues derived from the increase in taxes levied on distillate special fuels pursuant to § 26-56-201 and transferred to the State Highway and Transportation Department Fund pursuant to § 27-70-207(d) in accordance with §§ 26-56-201 and 26-55-1006; and

(6) "Highway improvements" or "highway improvement projects" means restoration and improvements to all of the interstate highway systems within the state, including roadways, bridges, or right-of-way under the jurisdiction of the commission and shall also include the acquisition, construction, reconstruction, and renovation of such interstate system and facilities appurtenant or pertaining thereto.

History. Acts 1999, No. 1027, § 2; 2011, No. 752, § 3.

27-64-206. Election.

(a) Bonds shall not be issued under this subchapter unless the issuance of bonds has been approved by a majority of the qualified electors of the state voting on the question at a statewide special election called by proclamation of the Governor in accordance with § 7-11-201 et seq.

(b)(1)(A) Notice of such election shall be published by the Secretary of State in a newspaper of general circulation in the state at least thirty (30) days prior to such election.

(B) Notice thereof shall be mailed to each county board of election commissioners and the sheriff of each county at least sixty (60) days prior to such election.

(2)(A) The notice of election shall state that the election is to be held for the purpose of submitting to the people the following proposition in substantially the form set forth herein:

"Authorizing the State Highway Commission to issue State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds (the "Bonds") in a total principal amount not to exceed five hundred seventy-five million dollars ($575,000,000). If approved, such bonds will be issued in several series of various principal amounts from time to time for the purpose of paying the cost of constructing and renovating improvements to interstate highways and related facilities in the State of Arkansas."

(B) The bonds shall be general obligations of the State of Arkansas, payable from certain designated revenues and also secured by the full faith and credit of the State of Arkansas, including its general revenues. Pursuant to this subchapter, the "Bond Act", the bonds will be repaid first from revenues derived from federal highway assistance funding allocated to the State of Arkansas designated as federal highway interstate maintenance funds, and, if needed, that portion of national highway system funds authorized by State Highway Commission Minute Order 98-214 adopted September 22, 1998, and, second, from revenue derived from the increase in the excise tax levied on distillate special fuels and diesel pursuant to § 26-56-201(e) and transferred to the State Highway and Transportation Department Fund pursuant to § 27-70-207(d) in accordance with § 26-56-201(f) and § 26-55-1006(d). To the extent that designated revenues are insufficient to make timely payment of debt service on the bonds, such payment shall be made from the general revenues of the State of Arkansas. The bonds shall be issued pursuant to the authority of and the terms set forth in this subchapter.

(C) Pursuant to this subchapter, the specific highway improvements to be financed are limited to restoration and improvements to all of the interstate highway systems within the state, including roadways, bridges, or rights-of-way under the jurisdiction of the commission, which shall also include the acquisition, construction, reconstruction, and renovation of such interstate highway systems and facilities appurtenant or pertaining thereto.

(D) Pursuant to this subchapter, "designated revenues" are defined as that portion designated by the commission of all funds received or to be received from the federal government of the United States as federal highway interstate maintenance funds, and, if needed, that portion of national highway system funds authorized by State Highway Commission Minute Order 98-214 adopted September 22, 1998, and revenues derived from the increase in taxes levied on distillate special fuels pursuant to § 26-56-201(e) and transferred to the State Highway and Transportation Department Fund pursuant to § 27-70-207(d) in accordance with § 26-56-201(f) and § 26-55-1006(d). Designated revenues shall not include the revenues derived from the increase in tax on motor fuel, gasoline, resulting from the Arkansas Distillate Special Fuel Excise Tax Act of 1999 and the Motor Fuel Excise Tax Act of 1999, §§ 26-55-1005, 26-55-1006, 26-56-201, and 27-72-305. The bonds are further secured by the full faith and credit of the State of Arkansas, and to the extent that designated revenues are insufficient to make timely payment of debt service on the bonds, the general revenues of the state shall be used to pay debt service on the bonds. Pursuant to § 26-56-201, the excise tax on distillate special fuels, in addition to the taxes levied pursuant to §§ 26-56-201, 26-56-502, and 26-56-601, will increase by two cents (2¢) per gallon on April 1, 1999, and the additional tax levied by § 26-56-201(e) shall increase to four cents (4¢) per gallon on the first anniversary of such date.

(c)(1) The ballot title shall be "Issuance of State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds and pledge of full faith and credit of the State of Arkansas."

(2) On each ballot there shall be printed the title, the proposition set forth in subdivision (b)(2) of this section, and the following:

"FOR issuance of State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds in an amount not to exceed $575,000,000 and the pledge of the full faith and credit of the State of Arkansas to further secure such bonds ..... [ ]

"AGAINST issuance of State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds in an amount not to exceed $575,000,000 and the pledge of the full faith and credit of the State of Arkansas to further secure such bonds ..... [ ]"

(d)(1) The county boards of election commissioners in each of the several counties of the state shall hold and conduct the election, and each such board is hereby authorized and directed to take such action with respect to the appointment of election officials and such other matters as are required by the laws of the state. The vote shall be canvassed and the result thereof declared in each county by such boards.

(2) Within ten (10) days after the date of the election, the results shall be certified by such county boards to the Secretary of State, who shall forthwith tabulate all returns so received and certify to the Governor the total vote for and against the proposition submitted pursuant to this subchapter.

(e)(1) The result of the election shall be proclaimed by the Governor by the publication of such proclamation one (1) time in a newspaper of general circulation in the State of Arkansas.

(2) The results as proclaimed shall be conclusive unless a complaint challenging such results is filed within thirty (30) days after the date of such publication in the Pulaski County Circuit Court.

(f)(1) If a majority of the qualified electors voting on the proposition vote in favor of the issuance of the bonds, then the commission shall proceed with the issuance of bonds in the manner and on the terms set forth in this subchapter.

(2) If a majority of the qualified electors voting on the proposition vote against the issuance of the bonds, none of the bonds authorized by this subchapter shall be issued.

(g) Subsequent elections may be called by the Governor if the proposition fails, but each such subsequent election may be held no earlier than six (6) months after the date of the preceding election.

History. Acts 1999, No. 1027, § 5; § 97; 2009, No. 1480, § 116; 2011, No. 2005, No. 2145, § 76; 2007, No. 1049, 752, §§ 4, 5.

27-64-211. Sources of repayment.

(a)(1) The bonds shall be general obligations of the State of Arkansas secured and payable from the designated revenues, as defined herein, and the general revenues of the state.

(2) The bonds will be payable first from certain designated revenues, specifically:

(A) That portion designated by the State Highway Commission of funds received or to be received from the federal government of the United States as federal highway assistance funding allocated to the state designated as federal highway interstate maintenance funds, and, if needed, that portion of national highway system funds authorized by State Highway Commission Minute Order 98-214 adopted September 22, 1998; and

(B) Revenues derived from the increase in taxes levied on distillate special fuels pursuant to § 26-56-201 and transferred to the State Highway and Transportation Department Fund pursuant to § 27-70-207(d) in accordance with § 26-55-1006(d) and § 26-56-201(f).

(3) To the extent that designated revenues are insufficient to make timely payment of debt service on the bonds, such payment shall be made from the general revenues of the State of Arkansas.

(b) In order to secure the payment of debt service, any trust instrument, resolution, or other document setting forth the security for the bondholders may provide for the direct payment of the federal highway assistance funds that are designated revenues directly into a trust fund or to a paying agent for the payment of debt service on the bonds, and it shall not be necessary for such funds to be deposited with the State Treasury.

History. Acts 1999, No. 1027, § 10; 2011, No. 752, § 6.

Subchapter 4 — Arkansas Interstate Highway Financing Act of 2007

SECTION.
27-64-405. Election.
27-64-410. Sources of repayment.

27-64-405. Election.

(a) No bonds shall be issued under this act unless the authority of the State Highway Commission to issue such bonds is approved by a majority of the qualified electors of the state voting on the question at a statewide election called by proclamation of the Governor. Such election may be in conjunction with a general election or it may be a special election. Notice of such election shall be published by the Secretary of State in a newspaper of general circulation in the state at least thirty (30) days prior to such election, and notice thereof shall be mailed to each county board of election commissioners and the sheriff of each county at least sixty (60) days prior to such election.

(b) The notice of election shall state that the election is to be held for the purpose of submitting to the people the following proposition in substantially the form set forth in this subsection:

"Authorizing the State Highway Commission to issue State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds (the 'Bonds') from time to time provided that the total principal amount outstanding from the issuance of such bonds, together with the total principal amount outstanding from the issuance of bonds pursuant to the Arkansas Highway Financing Act of 1999, § 27-64-201 et seq., shall not, at any time, exceed five hundred seventy-five million dollars ($575,000,000). If approved, the bonds will be issued in one (1) or more series of various principal amounts with the last series being issued no later than December 31, 2015. The bonds shall be issued for the purpose of paying the cost of constructing and renovating improvements to interstate highways and related facilities in the State of Arkansas.

"The bonds shall be general obligations of the State of Arkansas, payable from certain designated revenues and also secured by the full faith and credit of the State of Arkansas, including its general revenues. Pursuant to the Arkansas Interstate Highway Financing Act of 2007 (the 'Bond Act'), § 27-64-401 et seq., the bonds will be repaid first from: (1) revenues derived from federal highway assistance funding allocated to the State of Arkansas designated as federal highway interstate maintenance funds, and (2) revenue derived from the increase in the excise tax levied on distillate special fuels (diesel) pursuant to § 26-56-201(e) and transferred to the State Highway and Transportation Department Fund pursuant to § 27-70-207(d) in accordance with § 26-55-1006(d). To the extent that designated revenues are insufficient to make timely payment of debt service on the bonds, such payment shall be made from the general revenues of the State of

Arkansas. The bonds shall be issued pursuant to the authority of and the terms set forth in the Bond Act, § 27-64-401 et seq.

"Pursuant to the Bond Act, § 27-64-401 et seq., the highway improvements to be financed are limited to the restoration and improvements to all of the interstate highway system within the state, including roadways, bridges, or rights-of-way under jurisdiction of the State Highway Commission, which shall also include the acquisition, construction, reconstruction, and renovation of such interstate highway system and facilities appurtenant or pertaining thereto.

"Pursuant to the Bond Act, § 27-64-401 et seq., 'designated revenues' are defined as: (1) that portion designated by the commission of all funds received or to be received from the federal government as federal highway interstate maintenance funds, and (2) revenues derived from the increase in taxes levied on distillate special fuels pursuant to § 26-56-201(e) and transferred to the State Highway and Transportation Department Fund pursuant to Arkansas Code § 27-70-207(d) in accordance with § 26-55-1006(d). Designated revenues shall not include the revenues derived from the increase in tax on motor fuel (gasoline) resulting from the 'Arkansas Distillate Special Fuel Excise Tax Act of 1999' and the 'Motor Fuel Excise Tax Act of 1999', §§ 26-55-1005, 26-55-1006, 26-56-201, and 27-72-305. The bonds are further secured by the full faith and credit of the State of Arkansas, and to the extent 'designated revenues' are insufficient to make timely payment of debt service on the bonds, the general revenues of the state shall be used to pay debt service on the bonds."

(c) The ballot title shall be "Issuance of State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds and pledge of full faith and credit of the State of Arkansas." On each ballot there shall be printed the title, the proposition set forth in § 27-64-406, and the following:

"FOR authorizing the State Highway Commission to issue State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds from time to time provided that the total principal amount outstanding from the issuance of such bonds, together with the total principal amount outstanding from the issuance of bonds pursuant to the Arkansas Highway Financing Act of 1999, Arkansas Code § 27-64-201 et seq., shall not, at any time, exceed five hundred seventy-five million dollars ($575,000,000); such bonds to be issued in one or more series of various principal amounts, with the last series being issued no later than December 31, 2015, and to be secured by the full faith and credit of the State of Arkansas ..... [ ]

"AGAINST authorizing the State Highway Commission to issue State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds from time to time provided that the total principal amount outstanding from the issuance of such bonds, together with the total principal amount outstanding from the issuance of bonds pursuant to the Arkansas Highway Financing Act of 1999, Arkansas Code § 27-64-201 et seq., shall not, at any time, exceed five hundred seventy-five

million dollars ($575,000,000); such bonds to be issued in one or more series of various principal amounts, with the last series being issued no later than December 31, 2015, and to be secured by the full faith and credit of the State of Arkansas ..... [ ]"

(d) The county boards of election commissioners in each of the several counties of the state shall hold and conduct the election, and each such board is hereby authorized and directed to take such action with respect to the appointment of election officials and such other matters as is required by the laws of the state. The vote shall be canvassed and the result thereof declared in each county by such boards. The results shall, within ten (10) days after the date of the election, be certified by such county boards to the Secretary of State, who shall forthwith tabulate all returns so received and certify to the Governor the total vote for and against the proposition submitted pursuant to this act.

(e) The result of the election shall be proclaimed by the Governor by the publication of such proclamation one (1) time in a newspaper of general circulation in the State of Arkansas, and the results as proclaimed shall be conclusive unless a complaint is filed within thirty (30) days after the date of such publication in the Pulaski County Circuit Court challenging such results.

(f) If a majority of the qualified electors voting on the proposition vote in favor of the proposition, then the commission shall be authorized to issue bonds in the manner and on the terms set forth in this act. If a majority of the qualified electors voting on the proposition vote against the proposition, the commission shall have no such authority. Subsequent elections may be called by the Governor if the proposition fails, but each such subsequent election may be held no earlier than six (6) months after the date of the preceding election.

History. Acts 2007, No. 511, § 1; 2009, No. 153, § 2; 2009, No. 483, § 6; 2011, No. 752, § 7.

27-64-410. Sources of repayment.

The State of Arkansas Federal Grant Anticipation and Tax Revenue Bonds or GARVEE bonds shall be general obligations of the State of Arkansas secured and payable from the designated revenues, as defined herein, and the general revenues of the state. The bonds will be payable first from certain designated revenues, specifically: (1) that portion designated by the State Highway Commission of funds received or to be received from the federal government as federal highway assistance funding allocated to the state designated as federal highway interstate maintenance funds, and (2) revenues derived from the increase in taxes levied on distillate special fuels pursuant to section 2 of the Arkansas Distillate Special Fuel Excise Tax Act of 1999 and the Motor Fuel Excise Tax Act of 1999, §§ 26-55-1005, 26-55-1006, 26-56-201, and 27-72-305, and transferred to the State Highway and Trans-

portation Department Fund pursuant to § 27-70-207(d) in accordance with § 26-55-1006(d). To the extent that designated revenues are insufficient to make timely payment of debt service on the bonds, such payment shall be made from the general revenues of the State of Arkansas. In order to secure the payment of debt service, any trust instrument, resolution, or other document setting forth the security for the bondholders may provide for the direct payment of the federal highway assistance funds that are designated revenues directly into a trust fund, or to a paying agent, for the payment of debt service on the bonds, and it shall not be necessary for such funds to be deposited into the State Treasury.

History. Acts 2007, No. 511, § 1; 2011, No. 752, § 8.

Subchapter 5 — Arkansas Highway Financing Act of 2011

SECTION.
27-64-501. Title.
27-64-502. Findings.
27-64-503. Definitions.
27-64-504. Authorization — Purposes.
27-64-505. Election.
27-64-506. Procedure for issuing State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds.
27-64-507. Terms of bonds.
27-64-508. Sale of bonds.
27-64-509. Employment of professionals.
27-64-510. Sources of repayment.
27-64-511. Investment of proceeds.
27-64-512. Refunding bonds.
27-64-513. Tax exemption.
27-64-514. Powers of the State Highway Commission.

27-64-501. Title.

This subchapter may be referred to and cited as the "Arkansas Highway Financing Act of 2011".

History. Acts 2011, No. 773, § 3.

27-64-502. Findings.

The General Assembly of the State of Arkansas finds that:

(1) There is an immediate need for highway improvements throughout the State of Arkansas in order to provide for the health, safety, and welfare of its citizens and to promote economic development within the state;

(2) Through revenues generated pursuant to the Arkansas Highway Financing Act of 1999, § 27-64-201 et seq., the State Highway Commission has been successful in completing the rehabilitation of much of the state's Interstate Highway System and that the rehabilitation has been carried out in an efficient, cost-effective manner;

(3) Continued improvement of the Interstate Highway System and other routes on the National Highway System is necessary, and the best way to accomplish the improvements expeditiously is through the issuance of additional federal highway grant anticipation and tax revenue bonds to finance highway improvements;

(4) Bonds should be payable from revenues currently designated by the Arkansas Highway Financing Act of 1999, § 27-64-201 et seq., including federal highway assistance funding and the proceeds from the Arkansas Distillate Special Fuel Excise Tax Act of 1999 and the Motor Fuel Excise Tax Act of 1999, §§ 26-55-1005, 26-55-1006, 26-56-201, and 27-72-305, and § 26-56-801 et seq.; and

(5) The repayment of the bonds should be guaranteed by the full faith and credit of the state.

History. Acts 2011, No. 773, § 3.

27-64-503. Definitions.

As used in this subchapter:

(1) "Bonds" means the State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds, also known as "GARVEE bonds", as authorized in this subchapter;

(2) "Commission" means the State Highway Commission;

(3) "Debt service" means all amounts required for the payment of principal, interest, and premium, if any, due with respect to the bonds in any fiscal year along with all associated costs, including the fees and costs of paying agents and trustees, remarketing agent fees, credit enhancement costs, and other amounts necessary in connection with the bonds;

(4) "Designated revenues" means:

(A) The portion designated by the commission of funds received or to be received from the federal government as federal highway assistance funding allocated to the state; and

(B) Revenues derived from the distillate special fuel tax levied under:

(i) Section 26-56-201(e) that are available for expenditure after any distributions required by the Arkansas Highway Financing Act of 1999, § 27-64-201 et seq., the Arkansas Interstate Highway Financing Act of 2005, § 27-64-301 et seq., and the Arkansas Interstate Highway Financing Act of 2007, § 27-64-401 et seq.; and

(ii) Section 26-56-802; and

(5) "Highway improvements" or "highway improvement projects" means restoration and improvements to the Interstate Highway System and other routes within the National Highway System within the state, including roadways, bridges, or rights-of-way under the jurisdiction of the commission and includes the acquisition, construction, reconstruction, renovation of the Interstate Highway System and other routes within the National Highway System within the state and facilities appurtenant or pertaining to the Interstate Highway System and other routes within the National Highway System.

History. Acts 2011, No. 773, § 3.

27-64-504. Authorization — Purposes.

(a)(1) Subject to the one-time approval of the voters in a statewide election, the State Highway Commission may issue State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds from time to time if the total principal amount outstanding from the issuance of the bonds, together with the total principal amount outstanding from the issuance of bonds pursuant to the Arkansas Highway Financing Act of 1999, § 27-64-201 et seq., the Arkansas Interstate Highway Financing Act of 2005, § 27-64-301 et seq., and the Arkansas Interstate Highway Financing Act of 2007, § 27-64-401 et seq., does not at any time exceed one billion one hundred million dollars ($1,100,000,000).

(2) The bonds will be issued in one (1) or more series of various principal amounts with the last series being issued no later than December 31, 2017.

(b) The purpose of the bond issuance shall be to:

(1) Accelerate highway improvement projects already underway or scheduled;

(2) Fund new highway improvement projects;

(3) Finance the restoration, reconstruction, and renovation of highway improvements within the State of Arkansas; and

(4) Pay the costs of issuance of the bonds or other credit enhancement.

History. Acts 2011, No. 773, § 3.

27-64-505. Election.

(a)(1) State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds shall not be issued under this subchapter unless the levy of the additional tax on distillate special fuel under § 26-56-802 and the authority of the State Highway Commission to issue the bonds from time to time are approved by a majority of the qualified electors of the state voting on the question at a statewide election called by proclamation of the Governor.

(2) The election may be in conjunction with a general election, or it may be a special election.

(b)(1) Notice of the election shall be:

(A) Published by the Secretary of State in a newspaper of general circulation in the state at least thirty (30) days prior to the election; and

(B) Mailed to each county board of election commissioners and the sheriff of each county at least sixty (60) days prior to the election.

(2) The notice of election shall state that the election is to be held for the purpose of submitting to the people the following proposition in substantially the following form:

"Authorizing the State Highway Commission to issue State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds (the 'Bonds') if the total principal amount outstanding from the issuance of the bonds, together with the total principal amount

outstanding from the issuance of bonds pursuant to the Arkansas Highway Financing Act of 1999, § 27-64-201 et seq., the Arkansas Interstate Highway Financing Act of 2005, § 27-64-301 et seq., and the Arkansas Interstate Highway Financing Act of 2007, § 27-64-401 et seq. shall not, at any time, exceed one billion one hundred million dollars ($1,100,000,000). If approved, the bonds will be issued in several series of various principal amounts from time to time, with the last series being issued no later than December 31, 2017, for the purpose of paying the cost of constructing and renovating improvements to the Interstate Highway System and related facilities in the State of Arkansas and improvements to other routes on the National Highway System and related facilities in the State of Arkansas.

"The bonds shall be general obligations of the State of Arkansas, payable from certain designated revenues including particularly and without limitation a new tax described below, and also secured by the full faith and credit of the State of Arkansas, including its general revenues.

"Under the Arkansas Highway Financing Act of 2011 (the 'Bond Act'), the bonds will be repaid first from: (1) revenues derived from federal highway assistance funding allocated to the State of Arkansas; (2) revenues derived from the excise tax levied on distillate special fuel (diesel) pursuant to Arkansas Code § 26-56-201(e) that are available for expenditure after any distributions required by the Arkansas Highway Financing Act of 1999, the Arkansas Interstate Highway Financing Act of 2005, and the Arkansas Interstate Highway Financing Act of 2007; and (3) revenues derived from a new excise tax levied on distillate special fuel (diesel) pursuant to Arkansas Code § 26-56-802 at the rate of five cents (5¢) per gallon if the measure is approved. To the extent that designated revenues are insufficient to make timely payment of debt service on the bonds, the payment shall be made from the general revenues of the State of Arkansas. The bonds shall be issued pursuant to the authority of and the terms set forth in the Bond Act.

"Under the Bond Act, the highway improvements to be financed are limited to the restoration and improvements to the Interstate Highway System and of other routes on the National Highway System within the state, including roadways, bridges, or rights-of-way under jurisdiction of the State Highway Commission, which shall also include the acquisition, construction, reconstruction, and renovation of the Interstate Highway System and of other routes on the National Highway System and facilities appurtenant or pertaining thereto.

"Under Arkansas Code § 26-56-802, there is levied, subject to approval of this measure, a new excise tax levied on distillate special fuel (diesel) at the rate of five cents (5¢) per gallon. This tax shall not be levied unless this measure is approved by the voters.

"Under the Bond Act, 'designated revenues' are defined as: (1) the portion designated by the commission of funds received or to be received from the federal government of the United States as federal

highway assistance funding allocated to the state; (2) revenues derived from the excise tax levied on distillate special fuel (diesel) pursuant to Arkansas Code § 26-56-201(e) that are available for expenditure after any distributions required by the Arkansas Highway Financing Act of 1999, the Arkansas Interstate Highway Financing Act of 2005, and the Arkansas Interstate Highway Financing Act of 2007; and (3) revenues derived from the excise tax levied on distillate special fuel (diesel) pursuant to Arkansas Code § 26-56-802, which is a new five-cent-per-gallon tax to be levied upon the approval of this measure. The bonds are further secured by the full faith and credit of the State of Arkansas, and to the extent 'designated revenues' are insufficient to make timely payment of debt service on the bonds, the general revenues of the state shall be used to pay debt service on the bonds."

(c) The ballot title shall be "Issuance of State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds and pledge of full faith and credit of the State of Arkansas, and the levy of an additional five-cent-per-gallon tax on distillate special fuel (diesel)". On each ballot there shall be printed the title, the proposition set forth in subdivision (b)(2) of this section, and the following:

"FOR authorizing the State Highway Commission to issue State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds provided that the total principal amount outstanding from the issuance of the bonds, together with the total principal amount outstanding from the issuance of bonds pursuant to Arkansas Highway Financing Act of 1999, the Arkansas Interstate Highway Financing Act of 2005, and the Arkansas Interstate Highway Financing Act of 2007, shall not, at any time, exceed one billion one hundred million dollars ($1,100,000,000); such bonds to be issued in one or more series of various principal amounts with the last series being issued no later than December 31, 2017, and the pledge of the full faith and credit of the State of Arkansas to further secure the bonds, and the levy of an additional five-cent-per-gallon excise tax on distillate special fuel (diesel) to pay, as described above, along with other 'designated revenues,' as defined in the Arkansas Highway Financing Act of 2011, debt service on bonds ..... [ ]

"AGAINST authorizing the State Highway Commission to issue State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds provided that the total principal amount outstanding from the issuance of the bonds, together with the total principal amount outstanding from the issuance of bonds pursuant to Arkansas Highway Financing Act of 1999, the Arkansas Interstate Highway Financing Act of 2005, and the Arkansas Interstate Highway Financing Act of 2007, shall not, at any time, exceed one billion one hundred million dollars ($1,100,000,000); such bonds to be issued in one or more series of various principal amounts with the last series being issued no later than December 31, 2017, and the pledge of the full faith and credit of the State of Arkansas to further secure the bonds, and the levy of an additional five-cent-per-gallon excise tax on distillate special fuel (die-

sel) to pay, as described above, along with other 'designated revenues,' as defined in the Arkansas Highway Financing Act of 2011, debt service on bonds..... [ ]"

(d)(1) Each county board of election commissioners shall hold and conduct the election and may take any action with respect to the appointment of election officials and other matters as required by the laws of the state.

(2)(A) The vote shall be canvassed, and the result of the vote declared in each county by the board.

(B) Within ten (10) days after the date of the election, the results shall be certified by the boards to the Secretary of State, who shall tabulate all returns received and certify to the Governor the total vote for and against the proposition submitted pursuant to this subchapter.

(e)(1) The result of the election shall be proclaimed by the Governor by the publication of the proclamation one (1) time in a newspaper of general circulation in the State of Arkansas.

(2) The results as proclaimed shall be conclusive unless a complaint is filed within thirty (30) days after the date of the publication in Pulaski County Circuit Court challenging the results.

(f)(1) If a majority of the qualified electors voting on the proposition vote in favor of the proposition, then the commission may issue bonds from time to time in the manner and on the terms set forth in this subchapter.

(2) If a majority of the qualified electors voting on the proposition vote against the proposition, the commission shall have no authority to issue bonds.

History. Acts 2011, No. 773, § 3.

27-64-506. Procedure for issuing State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds.

(a) Prior to the issuance of any series of State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds, the State Highway Commission shall adopt a resolution authorizing the issuance of the series of bonds.

(b) Each resolution shall contain those terms, covenants, and conditions as are desirable and consistent with this subchapter, including without limitation those pertaining to the establishment and maintenance of funds and accounts, the deposit and investment of the federal highway assistance payments and bond proceeds, and the rights and obligations of the state, its officers and officials, the commission, and the registered owners of the bonds.

(c)(1) The resolutions of the commission may provide for the execution and delivery by the commission of a trust indenture or trust indentures with one (1) or more banks or trust companies located within or without the state, containing any of the terms, covenants, and

conditions required under subsection (b) of this section and any other terms and conditions deemed necessary by the commission.

(2) The trust indenture or trust indentures are binding upon the commission and the state and their respective officers and officials.

History. Acts 2011, No. 773, § 3.

27-64-507. Terms of bonds.

The State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds shall be subject to the following terms and conditions:

(1)(A) The bonds shall be issued in series in amounts sufficient to finance all or part of the costs of construction and maintenance of highway improvements.

(B) The respective series of bonds shall be designated by the year in which the bonds are issued.

(C) If more than one (1) series of bonds is to be issued in a particular year, the series shall be designated alphabetically;

(2)(A) The bonds of each series shall have the date or dates as the State Highway Commission shall determine.

(B) The bonds shall mature or be subject to mandatory sinking fund redemption over a period ending not later than twelve (12) years after the date of issue of each series.

(C) Refunding bonds issued under § 27-64-512 shall mature or be subject to mandatory sinking fund redemption over a period ending not later than twelve (12) years after the date of issue of the original bonds of each series;

(3)(A) The bonds of each series shall bear interest at the rate or rates determined by the commission at the sale of the bonds.

(B) The bonds may bear interest at either a fixed or a variable rate or may be convertible from one (1) interest rate mode to another.

(C) The interest shall be payable at the times as the commission shall determine;

(4) The bonds shall be issued in the form of bonds registered as to both principal and interest without coupons;

(5) The commission shall determine:

(A) The denominations of the bonds;

(B) Whether the bonds may be made exchangeable for bonds of another form or denomination bearing the same rate of interest;

(C) When the bonds may be made payable and the places within or without the state where the bonds may be payable;

(D) Whether the bonds may be made subject to redemption prior to maturity and the manner of and prices for redemption; and

(E) Any other terms and conditions; and

(6)(A) Each bond shall be executed with the facsimile signatures of the Chair of the State Highway Commission and the secretary of the commission, and the seal of the commission shall be affixed or imprinted on the bond.

(B) Delivery of executed bonds shall be valid, notwithstanding any change in the persons holding the offices that occurs after the bonds have been executed.

History. Acts 2011, No. 773, § 3.

27-64-508. Sale of bonds.

(a)(1) The State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds may be sold in any manner, either at private or public sale, and upon terms as the State Highway Commission shall determine to be reasonable and expedient for effecting the purposes of this subchapter.

(2)(A) The bonds may be sold at a price acceptable to the commission.

(B) The price may include a discount or premium.

(b)(1) If the bonds are to be sold at public sale, the commission shall give notice of the offering of the bonds in a manner reasonably designed to notify participants in the public finance industry that the offering is being made.

(2) The commission shall set the terms and conditions of bidding, including the basis on which the winning bid will be selected.

(c) The commission may structure the sale of bonds utilizing financing techniques that are recommended by the commission's professional advisors in order to take advantage of market conditions and to obtain the most favorable interest rates consistent with the purposes of this subchapter.

(d) The commission may enter into any ancillary agreements in connection with the sale of the bonds as it deems necessary and advisable, including without limitation bond purchase agreements, remarketing agreements, and letter of credit reimbursement agreements.

History. Acts 2011, No. 773, § 3.

27-64-509. Employment of professionals.

The State Highway Commission may retain any professionals necessary to accomplish the issuance and sale of the State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds, including without limitation legal counsel, financial advisors, underwriters, trustees, paying agents, and remarketing agents.

History. Acts 2011, No. 773, § 3.

27-64-510. Sources of repayment.

(a) The State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds shall be general obligations of the State of Arkansas secured and payable from the designated revenues and the general revenues of the state.

(b) The bonds shall be payable first from the following designated revenues:

(1) The portion designated by the State Highway Commission of funds received or to be received from the federal government as federal highway assistance funding allocated to the state; and

(2) Revenues derived from the distillate special fuel tax levied under:

(A) Section 26-56-201(e) that are available for expenditure after any distributions required by the Arkansas Highway Financing Act of 1999, § 27-64-201 et seq., the Arkansas Interstate Highway Financing Act of 2005, § 27-64-301 et seq., and the Arkansas Interstate Highway Financing Act of 2007, § 27-64-401 et seq.; and

(B) Section 26-56-802.

(c) If the amount of designated revenues is insufficient to make timely payment of debt service on the bonds, the payment shall be made from the general revenues of the State of Arkansas.

(d)(1) In order to secure the payment of debt service, any trust instrument, resolution, or other document setting forth the security for the bondholders may provide for the direct payment of the federal highway assistance funds that are designated revenues directly into a trust fund or to a paying agent for the payment of debt service on the bonds.

(2) It is not necessary for the funds to be deposited into the State Treasury.

(e) The additional distillate special fuel tax levied under § 26-56-802 shall terminate as provided under § 26-56-802(c)(3).

History. Acts 2011, No. 773, § 3.

27-64-511. Investment of proceeds.

(a) Designated revenues and proceeds of the State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds held pending disbursement on highway improvements shall be invested by the State Highway Commission to the full extent practicable pending disbursement for the purposes intended.

(b) Notwithstanding any other provision of law, the investments shall be in accordance with the terms of the resolution or trust indenture authorizing or securing the series of bonds to which the designated revenues or bond proceeds appertain to the extent that the terms of the resolution or trust indenture are applicable.

History. Acts 2011, No. 773, § 3.

27-64-512. Refunding bonds.

(a) The State Highway Commission may issue bonds for the purpose of refunding the State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds previously issued pursuant to this subchapter if the total amount of bonds outstanding after the refunding is completed does not exceed the total amount authorized by this subchapter.

(b) The refunding bonds shall be general obligations of the State of Arkansas and shall be secured and sold in accordance with the provisions of this subchapter.

History. Acts 2011, No. 773, § 3.

27-64-513. Tax exemption.

(a) All State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds issued under this subchapter and interest on the bonds shall be exempt from all taxes of the State of Arkansas, including income, inheritance, and property taxes.

(b) The bonds shall be eligible to secure deposits of all public funds and shall be legal for investment of municipal, county, bank, fiduciary, insurance company, and trust funds.

History. Acts 2011, No. 773, § 3.

27-64-514. Powers of the State Highway Commission.

(a) All powers granted to the State Highway Commission under this subchapter are in addition to the powers of the commission under Arkansas Constitution, Amendment 42, and the laws of the State of Arkansas.

(b) No member of the commission shall be liable personally for any reason arising from the issuance of the State of Arkansas Federal Highway Grant Anticipation and Tax Revenue Bonds pursuant to this subchapter unless the member acts with corrupt intent.

History. Acts 2011, No. 773, § 3.

CHAPTER 65

ARKANSAS DEPARTMENT OF TRANSPORTATION — STATE HIGHWAY COMMISSION

SECTION.

27-65-102. Administration of department.
27-65-103. Office locations.
27-65-104. Members.
27-65-107. Powers and duties generally — Definitions.
27-65-109. Transfer agreements.
27-65-113. Relocation assistance.
27-65-114. Tourist information bureaus.
27-65-122. Director of State Highways and Transportation.
27-65-123. Secretary.
27-65-129. Oaths.
27-65-130. Bonds — Commissioner and director.
27-65-132. Contracts between commission and employees.
27-65-134. Venue in suits against state highway officers.
27-65-135. Fiscal year.
27-65-136. Prohibition on increasing number of employees before election.
27-65-137. Special expense allowances.
27-65-138. Acquisition of property.
27-65-139. Uniform allowance.
27-65-140. Tool allowance.
27-65-141. Payment of claims for damages to personal property.
27-65-142. Moving expense.

SECTION.
27-65-143. Award of pistol, shotgun, or both upon retirement or death.
27-65-144. Additional annual reporting.
27-65-145. Transportation-Related Research and Workforce Development Grant Program — Definitions.
SECTION.
27-65-146. Proposed legislation — Reporting and approval requirements.
27-65-147. Additional reporting before each regular session and each fiscal session — Definitions.

Preambles. Acts 2019, No. 331, contained a preamble which read: "WHEREAS, Arkansas Constitution, Amendment 42, which creates the State Highway Commission and prescribes the qualifications and manner of appointment of members of the commission, provides that the commission be composed of five (5) members to be appointed from the state at large and that no two (2) commissioners be appointed from a single congressional district; and

"WHEREAS, the congressional districts in the state have been subject to redistricting since the enactment of Arkansas Constitution, Amendment 42; and

"WHEREAS, the intent of the requirement under Arkansas Constitution, Amendment 42, that no two (2) members be appointed from a single congressional district was to assure equal representation on the commission of all parts of the state; and

"WHEREAS, to accomplish the intent of Arkansas Constitution, Amendment 42, concerning the appointment of the commission members, it is necessary that the General Assembly enact legislation to clarify the residency requirements for persons appointed to the commission,

"NOW THEREFORE,"

Effective Dates. Acts 2016 (3rd Ex. Sess.), No. 1, § 23: July 1, 2016. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that Arkansas bridges and roads are in need of repair and proper maintenance; that the repair and proper maintenance of Arkansas bridges and roads are necessary for the preservation of the public peace, health, and safety; that increased funding is essential to the repair and proper maintenance of Arkansas bridges and roads; that this act is designed to provide the necessary funding that is essential to the repair and proper maintenance of Arkansas bridges and roads, and this act is necessary because without this increased funding, the repair and proper maintenance of Arkansas bridges and roads may not be performed. Therefore, an emergency is declared to exist, and Sections 1-8, 13, 15, 18-21 of this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2016."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

27-65-102. Administration of department.

The administrative control of the Arkansas Department of Transportation shall be vested in the State Highway Commission.

History. Acts 1953, No. 123, § 1; A.S.A. 1947, § 76-201.1; Acts 2017, No. 707, § 361.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department".

27-65-103. Office locations.

(a) The main office of the State Highway Commission shall be located in the City of Little Rock.

(b) The Arkansas Department of Transportation shall have its office in Little Rock, where complete records shall be kept.

History. Acts 1953, No. 123, §§ 1, 9; A.S.A. 1947, §§ 76-201.1, 76-201.9; Acts 2017, No. 707, § 362.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (b).

27-65-104. Members.

(a) All appointments to the State Highway Commission shall be made so as to assure that the commission shall be composed of:

(1) One (1) member from each of the four (4) congressional districts as the districts exist at the time of a member's appointment; and

(2) One (1) member from the state at large.

(b) The members of the commission shall each receive one hundred dollars ($100) per diem and their actual expenses while engaged in the work of the commission.

History. Acts 1953, No. 123, § 8; 1975, No. 693, § 14; 1979, No. 794, § 26; 1979, No. 932, § 1; 1981, No. 932, § 26; A.S.A. 1947, §§ 76-201.1a, 76-201.8; Acts 2019, No. 331, § 1.

Amendments. The 2019 amendment rewrote (a).

Cross References. Qualification, appointment, and terms of State Highway Commission members, Ark. Const, Amend. 42, § 2.

27-65-107. Powers and duties generally — Definitions.

(a) The State Highway Commission shall be vested with the following powers and shall have the following duties:

(1) To divide the state highway system into such maintenance and construction districts as the commission deems reasonable and proper for the performance of its duties hereunder;

(2) To let all contracts for the construction, improvement, and maintenance of the roads comprising the state highway system upon such terms and upon such conditions as required by law;

(3) To comply fully with the provisions of the present or future federal aid acts. The commission may:

(A) Enter into all contracts or agreements with the United States Government relating to the survey, construction, improvement, and maintenance of roads under the provisions of any present or future congressional enactment;

(B) Submit any scheme or program for construction or maintenance as may be required by the Federal Highway Administration, or otherwise provided by federal acts; and

(C) Do all other things necessary and proper to carry out fully the cooperation contemplated and provided for by present or future acts of the United States Congress for the construction, improvement, and maintenance of roads in rural or urban areas;

(4) To establish a program of current and long-range planning for the state highway system and to develop and coordinate a balanced statewide unified transportation plan for all modes;

(5) To establish highway policies and administrative practices for the guidance and direction of the Director of State Highways and Transportation;

(6) To prepare the budget request, expenditures programs, and periodical allotments;

(7) To investigate highway conditions and official conduct of Arkansas Department of Transportation personnel;

(8) To gather and tabulate information and statistics on road building, maintenance, and improvements and to disseminate them through the state through appropriate channels;

(9) To employ labor and lease equipment;

(10) To establish a merit system under the merit council and a job classification system and a salary scale in the department;

(11) To make purchases of materials, supplies, and equipment as provided by law;

(12) To sell all obsolete equipment, surplus supplies, and material that cannot be used by the department, and the commission is authorized to furnish evidence of title to the purchaser. Sales shall be made according to law;

(13) To adopt rules to implement the commission's powers;

(14) To adopt reasonable rules from time to time for the protection of, and covering, traffic on and in the use of the state highway system and in controlling use of, and access to, the highways, except that no provision contained herein shall be construed as repealing the existing "rules of the road";

(15) To bring suits to enforce demands of the state under this chapter and cause all suits to enforce any contracts or demands arising under the provisions of this chapter to be brought by the Attorney General in the name of the state;

(16) To restrict certain trucks when traveling on freeways with six (6) or more lanes from traveling in the furthermost left lane of the highways and to post signs compliant with the manual and specifications adopted pursuant to § 27-52-104 to notify motorists of the restrictions under this subdivision (a)(16);

(17) To establish by properly promulgated and adopted rules reasonable fees that are necessary to carry out the powers and duties of the commission for applications, permits, licenses, and other administrative purposes including but not limited to driveways, logos, billboards, signage, sign visibility, and weight restricted roadway maintenance to support the administration and operation of programs for which the fees are assessed;

(18)(A) To propose and submit rules regarding the:

(i) Criteria for distribution of funds and the distribution of funds from the:

(a) State Highway and Transportation Department Fund; and

(b) Road and Bridge Repair, Maintenance, and Grants Fund;

(ii) Spending priority designated for highway construction contracts and public road construction projects by the department and the commission, including the criteria used to establish the spending priority; and

(iii) Implementation of the recommendations included in the final report submitted by the Legislative Council resulting from the study of the department required by the Highway Commission Review and Advisory Subcommittee of the Legislative Council under Acts 2019, No. 298.

(B)(i) The commission shall submit the proposed rules required under subdivision (a)(18)(A) of this section to the Highway Commission Review and Advisory Subcommittee of the Legislative Council for review.

(ii) The proposed rules required under subdivision (a)(18)(A) of this section are not required to be promulgated under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., but shall be published after review by the Highway Commission Review and Advisory Subcommittee of the Legislative Council.

(C) The commission shall submit proposed contracts under subdivision (a)(18)(A)(iii) of this section of fifty thousand dollars ($50,000) or more to the Highway Commission Review and Advisory Subcommittee of the Legislative Council for review before the execution of the contracts.

(D) The Highway Commission Review and Advisory Subcommittee of the Legislative Council shall allow members of the public a reasonable length of time to comment on the proposed rules and contracts submitted under subdivision (a)(18)(A)(iii) and subdivision (a)(18)(C) of this section; and

(19) To provide the Highway Commission Review and Advisory Subcommittee of the Legislative Council with a report on the progress of each public road construction project of ten million dollars ($10,000,000) or more at least quarterly or as required by the Highway Commission Review and Advisory Subcommittee of the Legislative Council.

(b) The rules, together with any additions or amendments thereto, prescribed by the commission under the provisions of this chapter shall

have the force and effect of law. Any person, firm, or corporation violating any rule or any addition or amendment thereto shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than five dollars ($5.00) nor more than one hundred dollars ($100) for each offense.

(c) Notwithstanding any other provision of law to the contrary, the commission shall have the authority to enter into contracts that combine the design, construction, and construction engineering phases of a project into a single contract that shall be referred to as a "design-build project contract".

(d) As used in this section:

(1) "Highway construction contract" means a contract for the construction, restoration, reconstruction, renovation, or repair of a road, highway, bridge, overpass, interchange, right-of-way, or turnpike that is part of the state highway system; and

(2) "Public road construction project" means the construction, restoration, reconstruction, renovation, or repair of a road, highway, street, bridge, overpass, interchange, or right-of-way in which the construction, restoration, reconstruction, renovation, or repair is to be performed or is initiated by the department or the commission.

History. Acts 1929, No. 65, § 53; Pope's Dig., § 6903; Acts 1953, No. 123, § 5; 1977, No. 192, § 6; A.S.A. 1947, §§ 76-201.5, 76-217; Acts 2003, No. 460, § 1; 2007, No. 1054, § 1; 2013, No. 1362, § 4; 2015, No. 707, § 1; 2016 (3rd Ex. Sess.), No. 1, §§ 19, 20; 2017, No. 707, § 363; 2019, No. 315, §§ 3160, 3161; 2021, No. 739, § 2.

A.C.R.C. Notes. Acts 2013, No. 1362, § 1, provided: "(a) The Arkansas State Highway and Transportation Department regularly assesses fees for the issuance of permits, licenses, and for other administrative purposes as part of implementation and administration of statutory duties.

"(b) The purpose of this legislation is to ensure department compliance, to the extent necessary, with the requirements of Act 1159 of 2011 concerning the continuation of issuance of permits, licenses, and for other administrative purposes as part of implementation and administration of statutory duties."

Acts 2016 (3rd Ex. Sess.), No. 1, § 1, provided: "This act shall be known and may be cited as the 'Arkansas Highway Improvement Plan of 2016'."

Acts 2021, No. 739, § 1, provided: "Legislative Intent. The General Assembly finds that:

"(1) Acts 2019, No. 298, required a study of the working processes and functioning of the Arkansas Department of Transportation;

"(2) The purpose of the study was to examine and identify areas of potential improvement within the overall functioning of the department and to recommend legislation to the General Assembly for consideration in order to:

"(A) Maximize the department's use of taxpayer dollars;

"(B) Improve the efficiency and overall functioning of the department; and

"(C) Ensure the responsiveness of the department to the needs of the State of Arkansas and its citizens with regard to improvement of the state highways and roads;

"(3) The study was conducted with transparency through the collaboration of the department, members of the Highway Commission Review and Advisory Subcommittee of the Legislative Council, and members of the public; and

"(4) Continued collaboration between the department, members of the Highway Commission Review and Advisory Subcommittee of the Legislative Council, and members of the public is necessary to facilitate transparency and the implementation of the recommendations resulting from the study."

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (a)(7).

The 2019 amendment deleted "and regulations" following "rules" in (a)(13), (a)(14), and in the first sentence of (b); and deleted "or regulation" following "rule" in the second sentence of (b).

The 2021 amendment added (a)(18)(A)(iii); deleted (a)(18)(B)(ii) and redesignated former (a)(18)(B)(iii) as (a)(18)(B)(ii); and added (a)(18)(C) and (D).

CASE NOTES

Contracts.

Citizens' complaint against the Arkansas Department of Transportation did not state a cause of action for an illegal exaction under Ark. Const., Art. 16, § 13, where they did not allege that the department lacked the authority to enter into the agreement with the United States Fish and Wildlife Service (USFWS) or failed to follow any applicable statute, rule, or regulation with regard to the agreement, and the complaint did not allege any wrongdoing on the part of the State at all. The allegation that the USFWS took advantage of the department's highway-expansion project to force unreasonable terms on the state and the complaint's attempts to assert various contract defenses on the state's behalf were not sufficient to establish a claim for an illegal exaction. Prince v. Ark. State Hwy. Comm'n, 2019 Ark. 199, 576 S.W.3d 1 (2019).

27-65-109. Transfer agreements.

(a) The State Highway Commission is authorized to enter into agreements to exchange or agreements to transfer highways with appropriate county and municipal authorities.

(b) County and municipal authorities are authorized to enter into agreements with the commission to exchange or agreements to transfer highways in their respective highway systems.

(c) An exchange or transfer under this section shall include all property interests held by the transferring party.

(d) An exchange or transfer under this section does not require an exchange of money or other consideration.

(e) This section does not affect the authority of the commission under § 27-67-321 or § 27-67-322.

History. Acts 1961, No. 150, § 4; 2013, No. 764, §[1]; 2015, No. 378, § 1.

27-65-113. Relocation assistance.

(a) The State of Arkansas assents to the provisions of 23 U.S.C. § 101 et seq., as it existed on January 1, 2021.

(b) The State Highway Commission and the highway, road, and street authorities of the counties and the municipal corporations of Arkansas within their respective jurisdictions are authorized, empowered, and directed to perform such acts as may be necessary to provide relocation assistance in accordance with 23 U.S.C. § 101 et seq. and the rules and regulations promulgated by the United States Secretary of Transportation under 49 C.F.R. Part 24, as it existed on January 1, 2021.

History. Acts 1969, No. 246, §§ 1, 2; A.S.A. 1947, §§ 76-553, 76-554; Acts 2021, No. 618, § 1.

Amendments. The 2021 amendment rewrote (a); and, in (b), substituted "23 U.S.C. § 101 et seq." for "the provisions of Chapter 5, Title 23, United States Code", deleted "thereunder" following "regulations promulgated", and added "under 49 C.F.R. Part 24, as it existed on January 1, 2021".

27-65-114. Tourist information bureaus.

(a) The State Highway Commission is authorized to establish and maintain tourist information bureaus and enter into agreements with and lease rights-of-way, land, and other facilities owned by the commission to persons, partnerships, associations, public or private corporations, or any agency of the State of Arkansas for the purpose of establishing and maintaining tourist information bureaus.

(b) The commission shall adopt and establish rules for the establishment and maintenance of the tourist information bureaus provided for in this section.

History. Acts 1971, No. 185, §§ 1, 2; A.S.A. 1947, §§ 76-244, 76-245; Acts 2019, No. 315, § 3162.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (b).

27-65-122. Director of State Highways and Transportation.

(a) By a majority vote of the full State Highway Commission, the commission shall appoint a Director of State Highways and Transportation.

(b) The director shall be a practical business or professional person. At the time of appointment, the director may be a nonresident of the State of Arkansas.

(c) The director shall:

(1) Devote full time and attention to the duties set out herein;

(2) Receive compensation as fixed by the commission, unless a salary is fixed by the General Assembly in the appropriation act;

(3) Be reimbursed for actual traveling expenses while engaged in the discharge of duties;

(4) Be the chief executive officer of the Arkansas Department of Transportation and, subject to the approval of the commission, have direct and full control and management of the affairs relating to the state highways; and

(5) Attend all meetings of the commission and furnish the members with all information they may require for the proper administration of the department.

(d) The director may be removed from office by a majority vote of the full commission.

History. Acts 1953, No. 123, § 3; A.S.A. 1947, § 76-201.3; Acts 2017, No. 707, § 364.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (c)(4).

27-65-123. Secretary.

(a) The Arkansas Department of Transportation, with the advice and consent of the State Highway Commission, shall appoint an assistant who shall serve as secretary to the commission.

(b) The secretary:

(1) Shall keep full and true records of the proceedings of the commission;

(2) Shall be the custodian of all books, maps, documents, and papers filed with the commission and all orders made by the commission;

(3) Shall have, under the direction of the commission, general charge of its office;

(4) Shall superintend its clerical business;

(5) Shall perform such other duties as the Director of State Highways and Transportation or the commission may require; and

(6) May designate one (1) of the clerks in his or her office to perform the duties of secretary during his or her absence. During this time, the clerk so designated shall possess the powers of the secretary.

(c) All suits involving the validity of this section or any portion thereof shall be deemed matters of public interest and shall be advanced and disposed of at the earliest possible moment. Appeals in such suits must be taken and perfected within thirty (30) days from the date of the judgment or decree.

History. Acts 1933, No. 3, §§ 3, 9; Pope's Dig., §§ 6480, 6484; A.S.A. 1947, §§ 76-204, 76-208; Acts 2017, No. 707, § 365.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (a).

27-65-129. Oaths.

(a) The members of the State Highway Commission and the Director of State Highways and Transportation, before entering upon the discharge of their duties, shall take oaths that they will faithfully and honestly execute the duties of their offices during their continuance therein.

(b) All employees of the commission shall take the following oath before assuming the duties of their employment:

"I do solemnly swear (or affirm) that so long as I am an employee of the State Highway Commission of the State of Arkansas or of the Arkansas Department of Transportation, I will give my attention and due diligence to the work of the department, and that I will not accept other employment while in the employ of the department that will interfere with carrying out the responsibilities for my position, nor will I be interested, either directly or indirectly, in any of the contracts, work, or other activity of the Arkansas Department of Transportation other than as employee of the department, nor in the purchase or sale of any material, machinery, or equipment bought for or sold by the department while an employee of the department; that I will not be interested otherwise than as an employee of the state in adding any

road to the state highway system or in the improving of any road by the Arkansas Department of Transportation, nor in the appointment of any person to any position in connection therewith; and that I will diligently and impartially execute the duties of my employment, and I will never use any information or influence that I may have, by reason of my employment, to gain any pecuniary reward for myself, directly or indirectly, nor will I disclose information so that it may be used by others, [so help me God]."

(c) All suits involving the validity of subsection (b) of this section or any portion thereof shall be deemed matters of public interest and shall be advanced and disposed of at the earliest possible moment, and appeals in these suits must be taken and perfected within thirty (30) days from the date of the judgment or decree.

History. Acts 1933, No. 3, §§ 5, 9; Pope's Dig., §§ 6481, 6484; Acts 1949, No. 251, § 2; 1953, No. 123, § 4; A.S.A. 1947, §§ 76-201.4, 76-206, 76-208; Acts 2017, No. 707, § 366; 2021, No. 326, § 1.

Amendments. The 2017 amendment inserted "and Transportation" in (a); and substituted "Department of Transportation" for "State Highway and Transportation Department" three times in the second paragraph of (b).

The 2021 amendment, in (b), substituted "attention and due diligence" for "entire and undivided time", inserted "that will interfere with carrying out the responsibilities for my position", and inserted the bracket marks.

27-65-130. Bonds — Commissioner and director.

(a) Each commissioner of the State Highway Commission shall give bond, as required by law.

(b) Upon appointment, the Arkansas Department of Transportation shall execute a bond to the State of Arkansas in the sum of twenty-five thousand dollars ($25,000) for faithful performance of his or her duties.

(c) The premium on these bonds shall be paid out of the State Treasury from the annual appropriation for the commission.

History. Acts 1953, No. 123, §§ 3, 4; A.S.A. 1947, §§ 76-201.3, 76-201.4; Acts 2017, No. 707, § 367.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (b).

27-65-132. Contracts between commission and employees.

(a) Engineers, attorneys, or other employees of the State Highway Commission are prohibited from making any contract with that commission, other than their contracts of employment.

(b) None shall be pecuniarily interested, directly or indirectly, in any contract made by the commission or in the location or improvement of any state road.

(c) Willful violation of this section shall be deemed a felony punishable by imprisonment in the Division of Correction for not less than one (1) year.

History. Acts 1929, No. 65, § 5; Pope's Dig., § 6486; A.S.A. 1947, § 76-221; Acts 2019, No. 910, § 1027

Amendments. The 2019 amendment substituted "Division of Correction" for "Department of Correction" in (c).

27-65-134. Venue in suits against state highway officers.

(a) Suits against any state officer involving any act done or proposed to be done in the administration of the Arkansas Department of Transportation or of any law pertaining to the state highway system shall be brought only at the seat of government, in Pulaski County.

(b) However, where any suit may be filed against any contractor, or persons engaged in the construction of state highways or on account of any claim growing out of any contract, express or implied, or on account of any damages to person or property, the suits may be filed in any county in this state where service can be obtained upon the defendant by summons or publication of a warning order, and it shall give the court in which the suit is filed against the defendant jurisdiction when service is complete.

History. Acts 1933, No. 50, § 1; Pope's Dig., § 6514; A.S.A. 1947, § 76-232; Acts 2017, No. 707, § 368.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (a).

27-65-135. Fiscal year.

(a) The fiscal year of the Arkansas Department of Transportation shall be from July 1 to June 30 of each year.

(b) The State Highway Commission is exempted from the provisions of Acts 1971, No. 585, §§ 9, 10 [superseded].

History. Acts 1933, No. 92, § 2; Pope's Dig., § 6522; Acts 1971, No. 585, § 18; A.S.A. 1947, §§ 76-202, 76-246; Acts 2017, No. 707, § 369.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (a).

27-65-136. Prohibition on increasing number of employees before election.

(a) Within ninety (90) days preceding any primary election, the Arkansas Department of Transportation shall not increase the number of its employees beyond the average number of employees the department employed and supervised during the twelve (12) months prior to the primary election, except in case of floods.

(b) The commissioners of the State Highway Commission and the Treasurer of State shall not, at the penalty of being liable upon their official bonds, make any payment for salary to employees engaged by the department in violation of the provisions of this section.

History. Acts 1938 (1st Ex. Sess.), No. 14, § 1-A; 2017, No. 707, § 370.

Amendments. The 2017 amendment, in (a), substituted "Department of Transportation" for "State Highway Department" and "of employees the department

employed and supervised" for "which were employed by it and under its supervision".

27-65-137. Special expense allowances.

(a) Due to his or her exacting and special duties, the Director of State Highways and Transportation is hereby authorized an expense allowance of five hundred dollars ($500) per month upon approval of the State Highway Commission.

(b) The commission shall provide for an expense allowance of up to two thousand dollars ($2,000) per annum for each chief, captain, first lieutenant, second lieutenant, sergeant, corporal, patrolman first class, patrolman, and motor carrier safety inspector of the Arkansas Highway Police Division of the Arkansas Department of Transportation.

History. Acts 1991, No. 872, § 17; 1993, No. 160, § 16; 2017, No. 707, § 371.
Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (b).

27-65-138. Acquisition of property.

(a) Notwithstanding the provisions of any laws to the contrary, the Arkansas Department of Transportation, acting on behalf of the State Highway Commission, is hereby authorized, on acquiring whole taxable parcels of property upon which real estate taxes or assessments are due and payable or which shall become due and payable for any time period prior to the acquisition, to collect from the owner or owners of such property such taxes or assessments and to remit such taxes or assessments to the appropriate taxing or assessing authorities.

(b) Likewise, upon a showing by the department of such tax or assessment amounts, the courts of this state may deduct such amounts prior to delivering any orders regarding compensation by the department or commission to the owner or owners, and the department shall remit such taxes or assessments to the appropriate taxing or assessing authorities. In those instances where the department acting on behalf of the commission has deposited an estimated just compensation amount with the court, the department shall notify the county tax collector of that deposit.

History. Acts 1991, No. 961, § 1; 2001, No. 1135, § 1; 2017, No. 707, § 372.
Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (a).

27-65-139. Uniform allowance.

(a)(1) The State Highway Commission is hereby authorized to pay from funds appropriated for maintenance and operation a uniform allowance not to exceed one thousand eight hundred dollars ($1,800) per annum for all uniformed personnel of the Arkansas Highway Police Division of the Arkansas Department of Transportation.

(2) The above-mentioned per annum allowance shall be divided and paid on a monthly basis for each month of the employment for those eligible personnel of the Arkansas Highway Police Division of the department.

(b) Provided further, that when uniformed personnel are hired, they shall be paid an initial lump sum uniform allowance of two hundred dollars ($200) that shall be in addition to the monthly allowance as herein provided.

History. Acts 1993, No. 160, § 12; 2001, No. 1688, § 1; 2017, No. 707, § 373.

Amendments. The 2017 amendment, in (a)(1), deleted "(Arkansas Highway Police Patrol Officer through Chief, Police Division)" following "uniformed personnel", and substituted "Department of Transportation" for "State Highway and Transportation Department".

27-65-140. Tool allowance.

(a) The State Highway Commission may pay from funds appropriated for maintenance and operation a tool allowance of five hundred forty dollars ($540) per annum for each mechanic, electrical, plumbing, and mechanical repairer, welder, or body repairer and painter employed by the Arkansas Department of Transportation who works on highway equipment and facilities.

(b) The allowance authorized by subsection (a) of this section shall be equated to forty-five dollars ($45.00) per month for each month of employment for the eligible personnel of the department.

History. Acts 1993, No. 160, § 13; 2007, No. 66, § 1; 2017, No. 450, § 1; 2017, No. 707, § 374.

Amendments. The 2017 amendment by No. 450, in (a), substituted "may" for "is hereby authorized to" and "five hundred forty dollars ($540)" for "four hundred eighty dollars ($480)"; and, in (b), deleted "aforementioned" preceding "allowance", inserted "authorized by subsection (a) of this section", and substituted "forty-five dollars ($45.00)" for "forty dollars ($40.00)".

The 2017 amendment by No. 707 substituted "Department of Transportation" for "State Highway and Transportation Department" in (a).

27-65-141. Payment of claims for damages to personal property.

The Arkansas Department of Transportation is hereby authorized to pay amounts not to exceed twenty-five thousand dollars ($25,000) per claim for damages to personal property of others resulting from the operation of any motor vehicle or other motorized equipment of the department upon determination by the Arkansas State Claims Commission that the claim is valid after hearing the facts thereof and after prior review by the Claims Review Subcommittee of the Legislative Council and the Legislative Council.

History. Acts 1993, No. 160, § 14; 2017, No. 707, § 375.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department", inserted "Arkansas" preceding "State Claims", and substituted "Subcommittee" for "Committee".

27-65-142. Moving expense.

The State Highway Commission is hereby authorized to pay from funds appropriated from maintenance and operation the actual expense of moving the household and personal property of those employees of the Arkansas Department of Transportation who because of their job assignments are required to move their places of residence by the commission by the Director of State Highways and Transportation, subject to the approval by the director for each move so required.

History. Acts 1993, No. 160, § 15; 2017, No. 707, § 376.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department".

27-65-143. Award of pistol, shotgun, or both upon retirement or death.

When a highway police patrol officer of the Arkansas Highway Police Division of the Arkansas Department of Transportation retires from service or dies while still employed with the Arkansas Department of Transportation, in recognition of and appreciation for the service of the retiring or deceased officer, the State Highway Commission may award the pistol or the shotgun, or both, carried or used by the officer while on duty at the time of his or her death or retirement from service to:

(1) The officer upon retirement; or

(2) The officer's spouse if the officer is deceased and the spouse is eligible under applicable state and federal laws to possess a firearm.

History. Acts 2005, No. 2244, § 1; 2013, No. 307, § 1; 2015, No. 1158, § 13; 2017, No. 707, § 377.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" twice.

27-65-144. Additional annual reporting.

(a) The Arkansas Department of Transportation shall analyze all reported wrong-way crashes on interstate highways and other freeways that are a part of the state highway system to determine whether the installation of additional traffic control devices is warranted and feasible in order to reduce the possibility of future wrong-way crashes.

(b) Any additional traffic control devices installed under subsection (a) of this section shall conform to the Manual on Uniform Traffic Control Devices for Streets and Highways, approved by the Federal Highway Administration as the national standard in accordance with 23 U.S.C. § 109(d), 23 U.S.C. § 114(a), 23 U.S.C. § 217, 23 U.S.C. § 315, 23 U.S.C. § 402(a), 23 C.F.R. Part 655, and 49 C.F.R. §§ 1.48(b)(8), 1.48(b)(33), and 1.48(c)(2), and is the manual adopted by the State Highway Commission under § 27-52-104.

(c) A person may not file a legal action as a result of the implementation of any recommendations made from studies conducted under this section.

History. Acts 2009, No. 641, § 1; 2017, No. 707, § 378.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (a).

27-65-145. Transportation-Related Research and Workforce Development Grant Program — Definitions.

(a) As used in this section:

(1) "Transportation-related research" means the systematic investigation into and study of materials and sources in order to establish facts and reach new conclusions to provide resilient and sustainable logistics, processes, materials, and methods to ensure cost-effectiveness and the furtherance of education and economic development concerning all forms of transportation, including without limitation rail, public transportation, aviation, and waterborne transportation; and

(2) "Workforce development" means industry training, apprenticeship, and educational programs that foster skills required for transportation-related personnel development.

(b) The Transportation-Related Research and Workforce Development Grant Program is established to provide grants to publicly funded institutions of higher education for transportation-related research or workforce development.

(c) A publicly funded institution of higher education may submit an application to receive a grant for transportation-related research or workforce development to the Arkansas Department of Transportation, which includes without limitation:

(1) A brief description of the transportation-related research;

(2) An estimate of the cost-effective benefits of the transportation-related research or workforce development;

(3) The economic development anticipated from the transportation-related research; and

(4) Any other information requested by the department.

(d) The department may award a grant to a publicly funded institution of higher education using funds available in the Future Transportation Research and Workforce Development Fund for transportation-related research or workforce development that meets the criteria established by the department.

(e) The department and the State Highway Commission shall promulgate rules to implement and administer this section, including without limitation the:

(1) Application process;

(2) Disbursement of grant funds; and

(3) Criteria required under subsection (d) of this section.

History. Acts 2017, No. 705, § 3; 2021, No. 884, § 2.

Amendments. The 2021 amendment inserted "and Workforce Development" and "or workforce development" in the section heading and throughout the section; and added (a)(2).

27-65-146. Proposed legislation — Reporting and approval requirements.

(a) By December 1 of each year immediately preceding a regular session of the General Assembly, the Director of State Highways and Transportation shall present to the State Highway Commission for its approval, by recorded vote, all draft legislation that will be presented for filing during the regular session by the Arkansas Department of Transportation.

(b) The meeting at which the draft legislation is presented by the director to the commission shall be an open public meeting, in accordance with the requirements of § 25-19-106 of the Freedom of Information Act of 1967, § 25-19-101 et seq.

(c) Following approval of the commission of the draft legislation of the department, the director, or his or her designee, shall report to the Legislative Council at its December meeting regarding the legislative package of the department.

(d)(1) The department may introduce draft legislation not presented to the Legislative Council at its December meeting under subsection (c) of this section if the commission:

(A) Finds that imminent peril to the public health, safety, or welfare or compliance with a federal law or regulation requires introduction of additional legislation; and

(B) Discusses and votes on the need for the additional legislation in an open public meeting.

(2) The director shall report the outcome of the commission's determination regarding the need for additional legislation and provide copies of the draft legislation to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

History. Acts 2019, No. 299, § 1.

27-65-147. Additional reporting before each regular session and each fiscal session — Definitions.

(a) As used in this section:

(1) "Congested route" means a street or highway that is part of the state highway system and is:

(A) A rural two-lane street or highway with an average daily traffic count of nine thousand (9,000) or more vehicles each day;

(B) An urban two-lane street or highway with an average daily traffic count of thirteen thousand (13,000) or more vehicles each day;

(C) A four-lane street or highway with an average daily traffic count of fifty thousand (50,000) or more vehicles each day; or

(D) A six-lane street or highway with an average daily traffic count of eighty thousand (80,000) or more vehicles each day;

(2) "Discretionary funds" means funds available for use by the State Highway Commission or the Arkansas Department of Transportation that are not:

(A) Designated for a specific use under law;

(B) Required by law or by contract to be used for debt service; or

(C) Required by law or by contract to be used as a source for matching funds; and

(3) "Peak usage time" means the time of day during the week that the majority of people use streets and highways to travel to and from work or school, or both.

(b) Upon the convening of the General Assembly at each regular session and each fiscal session, the Director of State Highways and Transportation shall provide the following information in report form to all members of the General Assembly:

(1) The location of the ten (10) most congested routes in urban areas;

(2) The location of the ten (10) most congested routes in rural areas;

(3) For each county in the state, the five (5) locations that have the highest number of vehicle accidents and the five (5) locations that have the highest number of fatal vehicle accidents;

(4) The expenditure per person of state and federal highway funds, including without limitation discretionary funds, in each congressional district over the preceding ten (10) years;

(5) The number of miles of the state highway system that are in each congressional district; and

(6) The expenditures made per congressional district of state and federal highway funds, including without limitation discretionary funds, for the preservation of the state highway system.

History. Acts 2019, No. 789, § 1.

CHAPTER 66

ESTABLISHMENT AND MAINTENANCE GENERALLY

SUBCHAPTER.

1. General Provisions.
4. Private Roads.
5. Protection of Road Surfaces.
6. Employment of Inmates.

Subchapter 1 — General Provisions

SECTION.

27-66-102. Maintenance of roads under supervision of federal agency.

27-66-102. Maintenance of roads under supervision of federal agency.

If and when it becomes necessary, the Arkansas Department of Transportation will be permitted to expend highway maintenance funds for the maintenance and repair of highways not in the state highway system and that are constructed with public funds expended under the supervision of the Federal Highway Administration.

History. Acts 1937, No. 262, § 1; Pope's Dig., § 6529; A.S.A. 1947, § 76-508; Acts 2017, No. 707, § 379.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department"; and made a stylistic change.

Subchapter 2 — Road Designation Generally

27-66-207. Streets or roads dedicated to the public.

CASE NOTES

County Roads.

Circuit court had jurisdiction to enter an injunction and monetary judgment against a county judge in the landowners' trespass action and to find that the road at issue was not a county road because there was no evidence that the road had been dedicated to the public or that a bill of assurance had been recorded, as required by this section, nor of compliance with any of the other methods by which a county road could be created, and there was conflicting testimony as to whether a road to a cemetery existed on the landowners' property. Hinchey v. Taylor, 2015 Ark. App. 207 (2015).

Subchapter 4 — Private Roads

SECTION.
27-66-401. Establishment.
27-66-402. Duty of viewers.
SECTION.
27-66-403. Court order.

27-66-401. Establishment.

(a)(1) When the lands, dwelling house, or plantation of any owner is so situated as to render it necessary to have a road from such lands, dwelling house, or plantation to any public road or navigable watercourse over the lands of any other person and the other person refuses to allow that owner the road, the owner may petition the county court to appoint viewers to lay off the road, provided the owner gives written notice to the person twenty (20) days before application to the court and attaches the written notice to the petition.

(2) The written notice shall include the amount of payment the owner offers for the road.

(b) The petition for an easement for ingress and egress to and from the petitioner's lands over, through, and across the respondent's lands to any public road or navigable watercourse shall be filed with the clerk of the county court and shall allege with particularity facts demonstrating that:

(1) The written notice was provided by the petitioner to the respondent twenty (20) days before application to the court;

(2) The respondent refused to convey to the petitioner the requested access easement; and

(3) The petitioner lacked the legal right of ingress and egress to and from his or her lands across the respondent's lands or otherwise to a public road.

(c) Copies of abstracts, deeds, or plats referenced in the petition shall be attached to the petition.

(d) After the petition is filed, the county court shall issue a notice setting the time, date, and location of a preliminary hearing, and the hearing shall not be any earlier than sixty (60) days from the date of the petition's filing.

(e)(1) In accordance with the Arkansas Rules of Civil Procedure, the petitioner shall serve the resident or nonresident respondent with a:

(A) Summons;

(B) Copy of the petition and any exhibits; and

(C) Copy of the court notice of the preliminary hearing.

(2) If service is not obtained, the notice shall be published one (1) time per week for two (2) consecutive weeks in a newspaper of general circulation in the county at the petitioner's expense. If there is no newspaper of general circulation in the county, the notice shall be posted at the county courthouse.

(f)(1) The court may dismiss the case without prejudice and allow the petition to be refiled within one (1) year from dismissal if the court determines at the preliminary hearing that:

(A) Required notices and service have not been provided to the respondent; or

(B) The petition fails to sufficiently demonstrate the requirements of subsection (b) of this section.

(2)(A)(i) If the court determines at the preliminary hearing that required notices and service have been provided to the adjoining owner who has refused the landlocked petitioner an access easement or to any other adjoining owner that has been included in the petition and the petition sufficiently demonstrates the requirements of subsection (b) of this section, the court shall appoint viewers as provided under this section.

(ii) The court shall give each party at least ten (10) business days to submit up to three (3) potential viewers.

(iii) The court shall give due consideration to all potential viewers that were submitted by the parties and shall select one (1) of the potential viewers submitted from each party and one (1) or more viewers selected by the court for a total of three (3) viewers.

(B) If viewers are appointed by the court, the court shall:

(i) Issue a preliminary order directing the landlocked petitioner to deposit into the registry of the court an estimated sum sufficient for payment of:

(a) Viewers' fees and expenses;

(b) The survey cost;

(c) Damages related to the adjoining owner's property, including without limitation an estimate of:

(1) The loss of property value for the area of acquisition;

(2) The loss of exclusive use the adjoining owner will realize; and

(3) Damages to the owner's remaining property; and

(d) Notice and publication costs, if any;

(ii) Set the time, date, and location of the evidentiary hearing; and

(iii) Require the funds deposited to be used exclusively for the purposes stated under this subsection.

History. Acts 1871, No. 26, § 60, p. 56; C. & M. Dig., § 5250; Pope's Dig., § 6976; A.S.A. 1947, § 76-110; Acts 2009, No. 747, § 1; 2013, No. 1083, §§ 1, 2.

CASE NOTES

Analysis

In General.
Eminent Domain.

In General.

Landlocked landowner's claims seeking to access the landowner's property were not barred by doctrines of res judicata and law of the case; the landowner's prior appeal before a circuit court was dismissed without prejudice and no final order on the landowner's claim under this section had been entered. Bell v. Hoofman, 2010 Ark. App. 377, 375 S.W.3d 668 (2010).

Eminent Domain.

Commission was entitled to summary judgment in an owner's suit to establish a road across the commission's land because the proposed easement would have divested the state, via the commission, of the sole right to occupy the property at issue; Ark. Const. Art. 7, § 28, by itself, did not grant eminent domain power to county court to establish roads. If the county court could not have exercised the power of eminent domain to establish roads to access landlocked parcels under the constitution without the implementing legislation of §§ 27-66-401 to 404, then it could not have been said that Ark. Const. Art. 7, § 28 alone was sufficient to overcome the state's sovereign immunity. Ark. Game & Fish Comm'n v. Eddings, 2011 Ark. 47, 378 S.W.3d 694 (2011).

27-66-402. Duty of viewers.

(a) Viewers shall take the same oath and shall be governed in all respects as viewers appointed to public roads are governed under this act.

(b) They shall examine the route proposed for the road and any other route which they may deem proper.

(c) If a majority of the viewers state under oath that an access easement is necessary and proper as prayed in the petition, the viewers shall lay out and describe the access easement in a manner that produces the least inconvenience, damage, and devaluation of the property to the adjoining owners.

(d)(1)(A) The viewers shall make a written report under oath to the county court, describing the route of the road and the land through which it shall pass to allow location and identification of the access easement by land records, naming the owner, if known, and by decision of a majority of the viewers the damages sustained by each owner of lands through which the road passes. The damages shall include the value of each owner's land sought to be appropriated.

(B)(i) The parties shall stipulate to or dispute the report of the viewers.

(ii) Each party shall be given at least ten (10) business days to respond in writing to the viewers' report.

(2) The measure of damages shall be the difference in the fair market value of the lands immediately before the access easement is ordered and the fair market value of the lands after the access easement is ordered.

(e) The report shall be filed with the county clerk for the records of the county court.

(f)(1) A person who renders services under this subchapter as a viewer or reviewer, chain carrier, marker, or surveyor shall be paid reasonable costs and expenses based upon the current market rate for each day necessarily employed.

(2) Payments are to be charged as costs and expenses against the funds deposited by the petitioner.

(3) The amount due each person and the number of days employed shall be certified under oath by the viewers.

(4) The court by order may direct the county clerk to receipt payment by the petitioner of the directed sum into the registry of the court and to issue payment.

History. Acts 1871, No. 26, § 60, p. 56; C. & M. Dig., § 5250; Pope's Dig., § 6976; A.S.A. 1947, § 76-110; Acts 2009, No. 747, § 1; 2013, No. 1083, §§ 3, 4.

27-66-403. Court order.

(a)(1) If the petitioner has not complied with the court's order under § 27-66-401 and paid into the registry of the county court the estimated sum, the court may dismiss the case without prejudice and provide that the matter may be refiled within one (1) year from dismissal in accordance with the Arkansas Rules of Civil Procedure.

(2) If during the pendency of the proceedings the county court determines that the circuit court has jurisdiction over the matter, the county court may stay the proceedings or dismiss the case without prejudice and provide that the matter may be refiled within one (1) year from dismissal in accordance with the Arkansas Rules of Civil Procedure.

(3)(A)(i) The evidentiary hearing may be held if:

(a) At least sixty (60) days have passed since the initial petition was filed;

(b) The landlocked petitioner has complied with the court's order under § 27-66-401; and

(c) The landlocked petitioner has deposited the estimated sum under § 27-66-401.

(ii) At the evidentiary hearing, all parties shall have the opportunity to present evidence and cross-examine witnesses.

(B)(i) If after considering the report of the viewers, the evidence, the law, and all other proper and sufficient matters the court is of the opinion that it is necessary for the petitioner to have the road from his or her lands, dwelling house, or plantation to the public road or navigable watercourse, an order is to be made establishing the road not to exceed fifty feet (50') in width and determining the damages sustained by each owner of lands through which the access easement passes.

(ii)*(a)* The access easement of ingress and egress to and from the petitioner's lands to, through, over, and across the respondent's lands

shall be described in the final order or judgment of the court and shall be appurtenant to the petitioner's lands.

(b)(1) The order shall direct return of excess funds, if any, to the petitioner and any further deposits necessary to be made by the petitioners for the payment of all costs and expenses, including reasonable attorney's fees and costs, accruing and remaining unpaid on account of the petition for the road, and all things relating thereto and following therefrom, including the view and survey of the road and damages sustained by each owner of the lands over which the road passes.

(2)(A) If the respondent substantially prevails on the disputed issues in the case, the court shall award reasonable attorney's fees and costs to the respondent.

(B) In determining whether the respondent substantially prevails on the disputed issues, the court shall consider the respondent's success on the merits regarding the:

(i) Necessity of the road;

(ii) Route of the road;

(iii) Width of the road; and

(iv) Damages to the lands over which the road passes.

(c) The order shall state that:

(1) The respondent retains title to the lands over which the road passes; and

(2) The road is for an access easement only and is not an easement for any other purpose, including a public utility.

(iii) The petitioner shall be solely responsible for the maintenance of the road established under this subchapter.

(iv) The respondent shall have no responsibility for the maintenance of the road established under this subchapter.

(v) A user of the road does so at his or her own risk and peril and does not have the right to file a cause of action against the petitioner or respondent for any injury to the user or the user's property.

(b)(1) Either party may appeal to the circuit court from the final order or judgment of the county court within thirty (30) days from the entry of the order and not thereafter.

(2) The review by the circuit court shall be de novo and for strict compliance with this subchapter and any additional violations of the due process rights of the parties.

History. Acts 1871, No. 26, § 61, p. 56; C. & M. Dig., § 5251; Acts 1927, No. 216, § 1; Pope's Dig., § 6977; Acts 1955, No. 125, § 1; A.S.A. 1947, § 76-111; Acts 2009, No. 747, § 1; 2013, No. 1083, §§ 5, 6.

RESEARCH REFERENCES

ALR. May Easement or Right of Way Be Appurtenant Where Servient Tenement Is Not Adjacent to Dominant. 15 A.L.R.7th Art. 1 (2016).

CASE NOTES

Invalid Orders.

Litigants were not entitled to a writ of mandamus compelling a county court judge to comply with this section because the judge's order was final and left nothing left to be litigated. The litigants could appeal to the circuit court, where they were entitled to a trial de novo; this legal remedy foreclosed their right to mandamus. Veverka v. Gibson, 2013 Ark. 59 (2013).

Subchapter 5 — Protection of Road Surfaces

SECTION.

27-66-501. Classification of roads by weight of vehicles used thereon.

27-66-501. Classification of roads by weight of vehicles used thereon.

(a) Exclusive of city streets, state highways, or interstates, a county judge may post weight limits on public bridges in his or her jurisdiction in connection with federally mandated bridge inspections.

(b) Posted weight limit signs shall be in accordance with state and federal law.

(c)(1) It is unlawful for a person to drive, operate, or move a motor vehicle, an object, or a contrivance or for an owner of a motor vehicle, object, or contrivance to cause or permit the motor vehicle, object, or contrivance of a size or weight exceeding the posted weight limit to be driven, operated, or moved.

(2) A person or an owner operating a motor vehicle, an object, or a contrivance under an overweight permit issued by the Arkansas Department of Transportation is exempt from penalty under subdivision (c)(1) of this section.

(d) A violation of this section is a Class C misdemeanor.

(e) Even if authorized by an overweight permit issued by the Arkansas Department of Transportation, a person or an owner operating, driving, or moving a vehicle, an object, or a contrivance upon a public bridge shall be liable for all damage that the public bridge may sustain as a result of:

(1) Careless, negligent, or illegal operation, driving, or moving of a vehicle, an object, or a contrivance; or

(2) Operation, driving, or moving of a vehicle, object, or contrivance of excessive width or weighing in excess of the maximum weight limits in this chapter.

History. Acts 1919 (2nd Ex. Sess.), No. 222, §§ 2, 3, p. 4253; C. & M. Dig., §§ 5510, 5511; Pope's Dig., §§ 7152, 7153; A.S.A. 1947, §§ 76-122, 76-123; Acts 2007, No. 453, § 1; 2009, No. 483, § 7; 2017, No. 707, §§ 380, 381.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (c)(2) and the introductory language of (e).

Subchapter 6 — Employment of Inmates

SECTION.
27-66-601. State inmates working on roads.
27-66-602. County inmates working on roads.
27-66-603. Inmates preparing road materials.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

27-66-601. State inmates working on roads.

(a) The State Highway Commission shall employ and work as many of the state inmates on the public roads as may not be otherwise employed by the Division of Correction.

(b) State inmates working on roads shall be under the care and custody of wardens or other officers named by the division, with the approval of the Governor.

(c)(1) The commission shall determine the work to be done by inmates, the time, place, and manner of the work, and the number of inmates to work.

(2) The work shall be under the direct supervision of the Arkansas Department of Transportation.

(3) The department shall determine the number of inmates needed and shall prescribe the rules under which they shall work.

(d) The pay of the wardens or other officers and the cost of maintenance, including clothing, food, and housing for the state inmates while working on roads shall be paid out of the State Highway and Transportation Department Fund.

(e) The division is to receive no profits for working the inmates on state roads.

(f) The pay of the wardens or other officers and the cost of clothing state inmates while on the public roads shall be borne by the state.

(g) The cost of feeding and housing such inmates shall be borne by the county or improvement district where they may be worked.

History. Acts 1913, No. 302, § 78; 1917, No. 105, § 10; C. & M. Dig., §§ 5213, 5218; Pope's Dig., §§ 6928, 6933; A.S.A. 1947, §§ 76-523, 76-528; Acts 1995,

No. 1296, § 97; 2013, No. 295, § 13; 2017, No. 707, § 382; 2019, No. 315, § 3163; 2019, No. 910, §§ 1028, 1029.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (c)(2) and (c)(3).

The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (c)(3).

The 2019 amendment by No. 910 substituted "Division of Correction" for "Department of Correction" in (a), (b), and (e).

27-66-602. County inmates working on roads.

(a)(1) It shall be lawful to provide in any highway charter for working the male county inmates of any county on the public roads and highways of that county.

(2) But if the county inmates are to be worked in any district which is not coextensive with the county from which they came, then the working of inmates shall have to be approved by the county court having jurisdiction thereof, which approval shall rest in the sound discretion of the court, irrespective of any vote or endorsement by the electors of the district.

(b)(1) Every charter providing for working county inmates shall provide for the appointment of proper overseers, guards, physicians, and other officers and employees necessary and convenient for the control and well-being of the inmates.

(2) The overseers, guards, and other officers herein provided for the working of county inmates shall have the same powers and duties with reference to the inmates as sheriffs, jailers, or other peace officers have under similar circumstances.

(c)(1) The expense of feeding, clothing, housing, and superintending county inmates shall be charged to the particular improvement district or county where they are worked according to the time they may be used in such district or county.

(2) Each county shall be credited or paid the amount of costs incurred in the trial of every inmate, and the inmate shall receive the same credit per day on costs and fine or penalty as is now provided by law.

(3) If county inmates are to be worked in any special improvement district, each county furnishing inmates may receive a flat compensation for their labor of not less than seventy-five cents (75¢) per day.

(4) All payments and settlements provided in this section shall be made in cash.

History. Acts 1913, No. 302, §§ 79-81; C. & M. Dig., §§ 5214-5216; Pope's Dig., §§ 6929-6931; A.S.A. 1947, §§ 76-524 — 76-526; Acts 2013, No. 295, § 13.

27-66-603. Inmates preparing road materials.

Whenever practical, the State Highway Commission may engage such number of state or county inmates as may be available in preparing road materials at quarries or elsewhere, and the expenses of the work shall be charged to the state or the county or district receiving these materials.

History. Acts 1913, No. 302, § 82; C. & M. Dig., § 5217; Pope's Dig., § 6932; A.S.A. 1947, § 76-527; Acts 2013, No. 295, § 13.

CHAPTER 67

STATE HIGHWAY SYSTEM

SUBCHAPTER.

2. Highway Designation, Construction, and Maintenance.
3. Acquisition, Condemnation, and Disposition of Property.

A.C.R.C. Notes. Acts 2017, No. 707, § 435, provided:

"(a) All authority, powers, duties, and functions as established by law for the Arkansas State Highway and Transportation Department, including all purchasing, budgeting, fiscal, accounting, human resources, payroll, legal, information systems, maintenance, program support, administrative support, and other management functions shall be exercised by the Arkansas Department of Transportation, except as specified in this act.

"(b) All records, personnel, property, unexpended balances of appropriations, allocations, or other funds belonging to the Arkansas State Highway and Transportation Department now belong to the Arkansas Department of Transportation.

"(c) All powers, duties, and functions, including without limitation rulemaking, regulation, and licensing; promulgation of rules, rates, regulations, and standards; and the rendering of findings, orders, and adjudications as established by law for the Arkansas State Highway and Transportation Department shall be exercised by the Arkansas Department of Transportation, except as specified in this act.

"(d) An action, plea, prosecution, or proceeding, civil or criminal, pending on the effective date of this act [August 1, 2017] shall not be affected by this act but shall proceed in all respects as if the change in name had not been effected."

Subchapter 2 — Highway Designation, Construction, and Maintenance

SECTION.

27-67-202. Truck route designations.
27-67-203. Scenic highway designations.
27-67-204. Designation of roads in and connected to state parks — Definition.
27-67-205. Designation of roads to municipal airports.
27-67-206. New construction generally — Definitions.
27-67-210. Sales and severance tax exemption — Sand and gravel.
27-67-211. Interference with traffic control devices or barricades — Definition.
27-67-213. Fog lines — White stripes on road edges.
27-67-215. Maintenance of detour roads.
27-67-216. Repair of county roads damaged in construction or maintenance of state highway.
27-67-217. Direction signs to institutions of higher education.
27-67-218. Digging up highways without authorization.
27-67-219. John Paul Hammerschmidt Highway.
27-67-220. The Highway of Hope.
27-67-221. Authority of Arkansas Department of Transportation to inform amateur radio operators of high frequency radio repeaters.
27-67-222. State police officer highway dedication program — Definition.
27-67-223. Rock 'n' Roll Highway 67.
27-67-224. The Arkansas Wine Country Trail.

SECTION.
27-67-225. The Gold Star Families Highway.
27-67-226. Delta Rhythm & Bayous Highway.
27-67-227. Arkansas Delta highway designations — Legislative findings.
27-67-228. Construction project information signs — Definitions.
27-67-229. True Grit Trail.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

27-67-202. Truck route designations.

(a) The State Highway Commission is authorized to designate and establish truck routes through cities and towns, which routes shall be properly marked by the commission.

(b) Any truck route so established shall become a part of the state highway system, and the Arkansas Department of Transportation shall construct, repair, and maintain the truck route.

History. Acts 1953, No. 323, § 1; A.S.A. 1947, § 76-549; Acts 2017, No. 707, § 383.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (b).

27-67-203. Scenic highway designations.

(a) The following highways and designated parts of highways within the State of Arkansas are designated as scenic highways:

(1) U.S. 65 from the Louisiana line to the Missouri line;

(2) U.S. 71 from the Louisiana line to the Missouri line;

(3) U.S. 82 from the Mississippi River to Texarkana;

(4) U.S. 270 from U.S. 71 to Hot Springs;

(5) I-30 from Little Rock to U.S. 70 west of Benton, and U.S. 70 to Hot Springs;

(6) I-40 from Little Rock to the Oklahoma line west of Fort Smith;

(7) U.S. 63 from I-55 at Turrell to Mammoth Spring;

(8) U.S. 62 from the Missouri line to the Oklahoma line;

(9) State 7 from the Louisiana line to Bull Shoals Lake north of Harrison;

(10) The Great River Road: Highway 82 from the Mississippi line west to Highway 65; Highway 65 north from the Louisiana line to Dumas; Highway 4 from McGehee east through Arkansas City to Highway 1; Highway 1 from its intersection with Highway 4 through Watson to Highway 165 at Back Gate; Highway 165 north from Dumas to Dewitt; Highway 1 north to Highway 316; Highway 316 east to Highway 318; Highway 318 south to Highway 20; Highway 20 east to Elaine; Highway 44 north to Perry Street, Highway 20 north, U.S. Highway 49 Business North, Perry Street and east to Mississippi River Levee Rd. north through Helena-West Helena; Phillips County Road 239, 215, and 217; Lee County Road 217 and 221 through the St. Francis National Forest, Highway 44 to Marianna; Highway 79 north to Highway 38; Highway 38 east to Highway 147; Highway 147 north to Highway 70; Highway 70 and I-55 through West Memphis to the Tennessee line; Highway 77 from Highway 70 in West Memphis north to Highway 61; and Highway 61 through Blytheville to the Missouri line;

(11) State 32 and State 355 from Ashdown to Mineral Springs;

(12) State 27 to Kirby; U.S. 70 and State 8 to Norman; State 27 to Dardanelle; and State 27 from Dover to Harriet;

(13) State 9 from Crows to Jct. U.S. 65; State 16 from U.S. 65 to Shirley; and State 9 from Shirley to Mammoth Spring;

(14) State 28 from U.S. 71 to Ola;

(15) State 154 from Oppelo to State 27;

(16) State 23 from U.S. 71 to the Missouri line;

(17) State 309 from State 10 to State 23 at Ozark;

(18) State 21 from Clarksville to the Missouri line;

(19) State 16 from Searcy to Siloam Springs, including the connecting segment of State 25 at Heber Springs;

(20) State 14 from U.S. 63 to Table Rock Lake;

(21) State 68 from Alpena to Siloam Springs;

(22) State 5 from U.S. 67 to the Missouri line;

(23) State 25 from its intersection with U.S. 65 to Heber Springs; State 25 from Heber Springs to Batesville; U.S. 167 from Batesville to Ash Flat; State 286 from its intersection with I-40 to its intersection with State 60; State 60 from its intersection with State 286 to Perryville; and State 10 from its intersection with State 9 to I-430;

(24) State 58 from Sage through Guion, and State 69 to Melbourne;

(25) State 178 from Flippin to Mountain Home;

(26) State 88 from the Oklahoma line to Mena;

(27) State 59 from Van Buren to Jct. State 220;

(28) State 220 from Jct. 59 to State 74 at Devil's Den State Park;

(29) State 170 from Devil's Den State Park to U.S. 71 at West Fork;

(30) I-40 from the Tennessee line to Little Rock;

(31) I-30 from Benton south to the Clark County line;

(32) State 10 from Ola to Greenwood;

(33) State 22 from Dardanelle to Paris;

(34) State 12 from Rogers to Jct. State 23;

(35) State 141 from Jonesboro to McDougal;

(36) State 125 from its intersection with State 14 north of Yellville to the Missouri line;

(37) U.S. 49 from its intersection at Brinkley to the Mississippi state line, which will be known as the "Delta Parkway, an Arkansas Scenic Highway";

(38) State 5 from Benton to Hot Springs;

(39) U.S. 64 from its intersection with I-40 in Johnson County westward to the western corporate limits of the city of Ozark;

(40) State 186 from its intersection with I-40 in Franklin County south to its intersection with U.S. 64 at Altus;

(41) U.S. 70 from its intersection with I-440 in Pulaski County eastward to its intersection with U.S. 49 at Brinkley;

(42) U.S. 165 from its intersection with I-440 in Pulaski County eastward to Dumas;

(43) State 220 from State 59 to the Oklahoma border;

(44) That portion of State Highway 166 beginning at its intersection with U.S. 62 in Randolph County and extending south to the county line; State 361 beginning at the Spring River Bridge in Lawrence County and ending at its intersection with State 25 in Black Rock; and State 25 beginning at its intersection with State 361 in Black Rock and ending at the entrance to the Lake Charles State Park;

(45) U.S. 62 from St. Francis in Clay County, then south and west through Piggott to the intersection of West Cherry Street, then west on West Cherry Street to 12th Street, then north on 12th Street to its intersection with U.S. 62 West; then west on U.S. 62 to McDougal intersecting with State 141; then south on State 141 through Boydsville and Knob to Hooker where it intersects with State 135; then south along State 135 through Lafe to its intersection with U.S. 49; then south along U.S. 49 to Court Street in Paragould, then east on Court Street to Pruett Street, south on Pruett Street to Main Street, west on Main Street to 7th Street, south on 7th Street to U.S. Highway 412; then west along U.S. 412 to its intersection with State 168; then south on State 168 to an intersection with State 141 at Walcott; then south along State 141 to County Road 766, KAIT Road; then east on County Road 766 to State 351; then south on State 351 to U.S. 49 and U.S. 1 in Jonesboro; then south on U.S. 49 and U.S. 1 to Aggie Road, west to Robinson Street, south to Marshall Street, west to Caraway Road, then south on Caraway Road to Matthews Avenue, then west on Matthews Avenue to U.S. 49B, north to Cate Avenue, west to U.S. 49B, Union Avenue, and south to Campus Street; picking up at the intersection of State 1B South and State 18 East, then south on State 1B to an intersection with Windover Road; picking up at the intersection of State 1B South and Lakewood Drive; then south along State 1B to Craighead Forest Road; west on Craighead Forest Road to State Highway 141, Culberhouse Road; south on State Highway 141 to Lawson Road; east on Lawson Road across State Highway 1, continuing east to join State Highway 163; then south on State 163 to South Street in Harrisburg,

then southwest on South Street to Center Street, west on Center to the Courthouse Square, south on East Street to Court Street to North Main Street, North Main Street to East Jackson Street, State 14; then east on State 14 to State 163 South through Birdeye to an intersection with U.S. 64 at Levesque; then west along U.S. 64 and U.S. 64B; State Highway 284, Hamilton Avenue, into Wynne to Terry Street, south on Terry Street to Commercial Avenue, west on Commercial Avenue to Front Street, south on Front Street to Merriman Avenue, east on Merriman Avenue to U.S. 1, Falls Boulevard, south on U.S. 1 to Martin Drive, County Road 734, east on County Road 734 to State 284 South; then south on State 284 to Forrest Street in Forrest City, south on Forrest Street to East Broadway, west to Izard Street, south to East Front Street, west on East Front Street and intersecting with State 1; then south on State 1 to an intersection with U.S. 79; then east on U.S. 79 through Marianna to Poplar Street, then south on Poplar Street to an intersection with State 44; then south on State 44 through the St. Francis National Forest intersecting with State 242; then south along State 242 to U.S. 49B; then east on U.S. 49B, becoming Perry and Porter Streets, to Cherry Street in Helena-West Helena, south on Cherry Street to Missouri Street, west on Missouri Street to Biscoe, at U.S. 49B; and then south on U.S. 49B to the Arkansas-Mississippi Bridge, which will be known as "Crowley's Ridge Scenic Highway", an Arkansas Scenic Highway;

(46) State 540 from I-40 northward to Mountainburg in Crawford County and that portion of the route being constructed on a new location to its intersection with the U.S. 71 Fayetteville Bypass in Washington County;

(47) I-530 from State 256 to U.S. 65 South;

(48) Beginning at the intersection of State 96 and U.S. 71 west of Mansfield in Sebastian County; then along State 96 westward until reaching the eastern corporate limits of Hartford in Sebastian County, which will be known as the "Poteau Mountain Scenic Highway", an Arkansas Scenic Highway;

(49) State 10 from the western corporate limits of Greenwood in Sebastian County, then westward along State 10 until reaching the Oklahoma state boundary, which will be known as the "Sugarloaf Mountain Scenic Highway", an Arkansas Scenic Highway;

(50) State 90 in Pocahontas, Randolph County, from the Court Square to Ravenden, Lawrence County, and State 90 in Pocahontas, from the Court Square to Dalton on State 93;

(51) State Highway 5 from Little Rock to Benton; State Highway 229 from Benton becoming U.S. 67 South and U.S. 270B to Malvern; U.S. 270B from Malvern to Rockport; U.S. 67 South from Malvern through Donaldson to Arkadelphia; picking up at County Road 15, Midway Road, west of Donaldson, then north on County Road 15 to Social Hill; State Highway 8 from Arkadelphia west to State Highway 26 and State Highway 51, Hollywood Road, to County Road 269, Halfway Cemetery Road, in Halfway; then south on County Road 269 to Halfway Cem-

etery; picking up at the intersection of State Highway 26 and County Road 11, Davidson Campground Road, then south on County Road 11 to Davidson Campground; picking up at the intersection of State Highway 26 with State Highway 53, then south along State Highway 53 becoming State Highway 51 to Okolona; picking up at County Road 16, Smyrna Road, to the Battle of the Bees historical marker; then south along State Highway 51 from Okolona to U.S. 67 south to Prescott; picking up at County Road 37, Nubbin Hill Road, north of Prescott, continue north to Elkins' Ferry Battlefield; State Highway 19, Delight Highway, from Prescott north to the Prairie D'Ane Battlefield; picking up at U.S. 371 and State Highway 24 in Prescott to their intersection with County Road 30 and State Highway 30; State Highway 24 from Prescott east to Bluff City; picking up at the intersection of State Highway 24 with County Road 23, Cale Road, then south on County Road 23 to Moscow Methodist Church and Cemetery; picking up at State Highway 332, Washington Road, from Prescott west to State Highway 29 to north of Hope; U.S. 278, Commerce Boulevard, from Hope west to Historic Washington State Park in Washington; picking up at the intersection of State Highway 24 and State Highway 387 in Bluff City, then south along State Highway 387 becoming State Highway 76 to its intersection with State Highway 24; then along State Highway 24 to Camden; then east along U.S. 278 and U.S. 278B, Washington Street, to State Highway 7, Adams Street and Maul Road; then north on State Highway 7 to Henry Wesley Sr. Drive; U.S. 79B, California Avenue, in Camden south to Grinstead Street; U.S. 79 from Camden to Fordyce; State Highway 8 from Fordyce east to its intersection with State Highway 97; then north on State Highway 97 from Fordyce to Marks Cemetery Road; State Highway 8 from Fordyce north through Princeton and Tulip to State Highway 46 to Sheridan; picking up at Grant County Road 1 and Dallas County Road 409 in Leola, then south on Grant County Road 1 and Dallas County Road 409 to Phillips Trail; picking up at the intersection of State Highway 46 and Grant County Road 6, then north along Grant County Road 6 to State Highway 229; then south along State Highway 229 to State Highway 46; picking up at the intersection of State Highway 46 and State Highway 291, then north along State Highway 291 to Prattsville; State Highway 35 from Sheridan to its intersection with State Highway 183; then east along State Highway 183 through Bauxite becoming Reynolds Road to its intersection with State Highway 5, Old Stage Coach Road; which will be known as the "Camden Expedition Scenic Highway", an Arkansas Scenic Highway;

(52) State 549, to be known in the future as "Interstate 49", from its intersection with U.S. 71/71B in Benton County northwest to the Missouri state line; and

(53) State Highway 5 from its intersection with U.S. 70/70B in Garland County northwest to its intersection with State Highway 7.

(b)(1) It shall be the responsibility of the Arkansas Department of Transportation to place appropriate highway identifying signs on those highways herein that are state highways.

(2) It shall be the obligation of the respective counties to place appropriate signs on county roads on their respective county road systems.

(3) The department shall identify all highways designated herein as scenic highways on any official state highway maps prepared and distributed by the department.

(c) The department shall erect appropriate signs along the route of those highways or sections of highways designated herein, indicating that these highways or parts of highways have been designated as scenic highways.

History. Acts 1975, No. 462, §§ 1, 2; 1981, No. 676, § 1; 1983, No. 181, § 1; 1985, No. 20, § 1; A.S.A. 1947, §§ 76-560, 76-561; Acts 1989 (3rd Ex. Sess.), No. 21, § 1; 1991, No. 202, § 1; 1991, No. 226, § 1; 1991, No. 679, § 1; 1991, No. 734, § 1; 1993, No. 449, § 1; 1993, No. 464, § 1; 1993, No. 723, § 1; 1995, No. 833, § 1; 1997, No. 180, § 1; 1997, No. 382, § 1; 1997, No. 1268, § 1; 1999, No. 302, § 1; 1999, No. 392, § 1; 2001, No. 92, § 1; 2001, No. 1061, § 1; 2003, No. 130, § 1; 2009, No. 495, § 1; 2013, No. 714, § 1; 2015, No. 1189, § 1; 2017, No. 707, § 384; 2019, No. 292, § 2; 2019, No. 293, § 1; 2021, No. 675, § 1.

A.C.R.C. Notes. Acts 2019, No. 292, § 1, provided: "Legislative findings. The General Assembly finds that:

"(1) Civil War tourism brings many benefits to the surrounding community including new:

"(A) Jobs for local residents;

"(B) State and local tax revenues; and

"(C) Business for the local economy;

"(2) Well-preserved Civil War battlefields are important to Arkansas tourism in attracting tourists who wish to experience the authenticity of place associated with the battles that shaped American history, and these types of tourists tend to stay significantly longer in the areas they visit than other tourists;

"(3) The Camden Expedition was the Arkansas phase of the Red River Campaign devised to reassert the Union Army's control over Arkansas, Louisiana, and Texas;

"(4) On March 23, 1864, Major General Frederick Steele led a Union army of eight thousand five hundred (8,500) troops made up of infantry, artillery, and cavalry south from Little Rock to join a larger Union force in Shreveport, Louisiana, and invade Texas;

"(5) Major General Steele's army abandoned the drive south and turned instead to Camden after learning Union forces in Louisiana had been defeated;

"(6) Due to a lack of logistical planning, poor roads, shortage of food and supplies, and continued Confederate resistance, Steele and his remaining troops fled Camden and retreated to Little Rock;

"(7) The defeated Union force arrived in Little Rock on May 3, 1864, with over two thousand five hundred (2,500) casualties making the Camden Expedition one of the worst Union military disasters of the American Civil War to take place in Arkansas;

"(8) In 1994, eight (8) historic sites associated with the Camden Expedition were designated as the 'Camden Expedition National Historic Landmark', a distinction accorded by the United States Secretary of the Interior only to landmarks of national historical significance;

"(9) The Camden Expedition Scenic Highway guides a Civil War tourist through southern and central Arkansas connecting five (5) battlefields and other Civil War historic sites, including the:

"(A) Confederate State Capitol building in Historic Washington State Park in Hempstead County;

"(B) Elkins' Ferry Battlefield in Clark and Nevada counties;

"(C) Fort Lookout on Rogers Street, in Camden, Ouachita County;

"(D) Fort Southerland on Bradley Ferry Road, in Camden, Ouachita County;

"(E) Jenkins' Ferry Battleground State Park, Grant County;

"(F) Marks' Mills Battleground State Park, Cleveland County;

"(G) Site of the Skirmishes at Okolona, Clark County;

"(H) Poison Springs Battleground State Park State Park, Ouachita County;

"(I) Prairie D'Ane Battlefield, Nevada County; and

"(J) Site of the Skirmish at Terre Noire Creek, Clark County; and

"(10) The designation of the 'Camden Expedition Scenic Highway' is essential to preserve and develop Civil War historic sites while increasing economic development of cities in close proximity to the Civil War historic sites."

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (b)(1).

The 2019 amendment by No. 292 added (a)(51).

The 2019 amendment by No. 293 added (a)(52).

The 2021 amendment added (a)(53).

27-67-204. Designation of roads in and connected to state parks — Definition.

(a) The State Highway Commission shall include as a part of the state highway system the most used vehicular roads located within the geographical boundaries of all existing state parks and the most used roads and highways connecting established state highways with state parks. When any new state park is created or established, the commission shall immediately include as a part of the state highway system the vehicular road within the boundaries of the new state park and the roads and highways connecting the new state park to established state highways.

(b) The provisions of this section shall be applicable to all state parks which are now or may hereafter be placed under the control and direction of the Department of Parks, Heritage, and Tourism.

(c) It shall be the duty of the commission to provide for maintenance and repairs of these roads as provided for other state highways.

(d)(1) The Arkansas Department of Transportation is authorized to construct and maintain public parking areas and parking facilities at the respective state parks.

(2) For the purposes of this subsection, parking areas and facilities constructed by the Arkansas Department of Transportation at the respective state parks shall be deemed to be a part of the state highway system.

(3) The Department of Parks, Heritage, and Tourism shall study the needs for public parking areas and parking facilities at the respective state parks and shall notify the Arkansas Department of Transportation thereof.

(4) The Arkansas Department of Transportation may cooperate with the Department of Parks, Heritage, and Tourism in the construction and maintenance of such facilities.

(e)(1) Notwithstanding any law to the contrary the Department of Parks, Heritage, and Tourism is permitted by rule to authorize the use of motorized scooters on roads within areas under the control and management of the Department of Parks, Heritage, and Tourism.

(2) As used in this section, "motorized scooter" means a two-wheeled device that:

(A) Has handlebars;

(B) Can be stood or sat upon by the operator;

(C) Is powered by an electric, gasoline, or alcohol-fueled motor capable of propelling the device with or without human propulsion;

(D) Has a top speed of twenty miles per hour (20 m.p.h.); and

(E) Does not otherwise meet the definitions of "motorcycle", "motor-driven cycle", or "motorized bicycle" under § 27-20-101, or the definition of an electric bicycle under § 27-51-1702.

(3) Any use authorized under this section is limited to the period between sunrise and sunset.

History. Acts 1937, No. 109, §§ 1-3; Pope's Dig., §§ 6524-6526; Acts 1957, No. 387, §§ 1, 2; 1961, No. 83, §§ 1, 2; 1963, No. 152, §§ 1, 2; A.S.A. 1947, §§ 76-502, 76-503, 76-503.1, 76-503.2, 76-504; Acts 2013, No. 578, § 1; 2017, No. 707, § 385; 2017, No. 956, § 4; 2019, No. 315, § 3164; 2019, No. 910, §§ 5722-5724.

Amendments. The 2017 amendment by No. 956 added "or the definition of an electric bicycle under § 27-51-1702" at the end of (e)(2)(E).

The 2017 amendment by No. 707 substituted "Department of Transportation" for "State Highway and Transportation Department" in (d)(1) through (d)(4).

The 2019 amendment by No. 315 substituted "rule" for "regulation" in (e)(1).

The 2019 amendment by No. 910 substituted "Department of Parks, Heritage, and Tourism" for "Department of Parks and Tourism" in (b), (d)(3), (d)(4), and (e)(1).

27-67-205. Designation of roads to municipal airports.

The State Highway Commission may include as a part of the state highway system the principal vehicular road leading to each municipal airport in this state that is located outside the city limits of a municipality and that:

(1) Has one (1) or more hard-surfaced runways at least two thousand feet (2,000') in length;

(2) Provides fueling services for aircraft; and

(3) Provides overnight tie-down facilities for aircraft.

History. Acts 1971, No. 248, §§ 1-3; A.S.A. 1947, §§ 76-557 — 76-559; Acts 2015, No. 590, § 1.

27-67-206. New construction generally — Definitions.

(a) It shall be the duty of the State Highway Commission to construct the roads in the state highway system which are not now constructed and that the work of construction be pushed as rapidly as funds are available for that purpose.

(b) The commission shall begin the work of construction in those counties in which the roads embraced in the state highway system have not been constructed by improvement districts, or in which only a small portion of roads have been so constructed. The commission shall continue construction work in such counties until the completed roads in each county in the state have been brought to a parity, after which construction work shall be distributed throughout the counties so as to maintain the parity as far as practical.

(c) All new construction work shall be done by contract, and all contracts for the work shall be let to the lowest responsible bidder.

(d) The commission shall have the right to reject any or all bids.

(e) No contract in excess of ten thousand dollars ($10,000) shall be let without advertising for bids. However, the commission may enter into agreements in excess of ten thousand dollars ($10,000) on a noncompetitive basis in a manner that it deems fit with railway companies for the installation of flashing light signals or other types of railroad highway grade crossing protective devices and work necessary to be performed by the railroads in conjunction with the construction of grade elimination structures on force account or day labor basis when the work incurred is financed with federal funds in whole or in part.

(f) Successful bidders shall be required to furnish a surety bond by a surety company to be approved by the commission, in a penal sum of at least one-fourth (¼) of the amount of the contract price, conditioned as the commission may require.

(g) However, the commission may accept personal bonds, but in every case in which a personal bond is accepted, the contractor shall be required to deposit United States Government bonds, state highway bonds or notes, or valid bonds of any road improvement district referred to in Acts 1929, No. 65, § 19 [repealed], in an amount equal to twenty-five percent (25%) of the amount of the contract to be held in escrow as collateral security for the performance of the contract.

(h) Where the commission is of the unanimous opinion that any particular piece of work may be done more economically with state forces, the commission may proceed to do the particular construction work with state forces.

(i) The commission may let contracts for the construction of necessary bridges on the state highways to be paid for out of the State Highway and Transportation Department Fund.

(j)(1) As used in this subsection:

(A) "Authorized entity" means a company, firm, partnership, corporation, association, joint venture, or other legal entity, including a combination of any of these entities, that makes a proposal under this subsection;

(B) "Concession" means a lease, franchise, easement, permit, or other binding agreement transferring rights for the use or control of a transportation facility by the commission to a private partner under this subsection; and

(C) "State highway revenues" means "highway revenues" as defined under § 27-70-202.

(2) Notwithstanding any other provisions of law to the contrary, the commission may:

(A) Establish written procedures and rules for the procurement of:

(i) Qualification-based, design-build services and for administering design-build project contracts;

(ii) Qualification-based, design-build finance services and for administering a design-build finance project contract; and

(iii) An agreement for a concession;

(B) Receive solicited and unsolicited proposals for a project proposed under this subsection by an authorized entity;

(C) Award a project contract on a qualification basis that offers the greatest value for the state; and

(D) Contract with an authorized entity to design, construct, improve, and maintain qualified projects.

History. Acts 1929, No. 65, §§ 18, 21; Pope's Dig., §§ 6527, 6549; Acts 1941, No. 341, § 1; 1947, No. 222, § 1; A.S.A. 1947, §§ 76-505, 76-507; Acts 2003, No. 460, § 2; 2013, No. 541, § 1; 2015, No. 704, § 1; 2019, No. 315, § 3165.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (j)(2)(A).

27-67-210. Sales and severance tax exemption — Sand and gravel.

When the Arkansas Department of Transportation, by lease or by oral or written agreement with the landowner, enters upon the land and severs sand and gravel for the purpose of using the sand and gravel in the repair, maintenance, or construction of state highways, then the department as the producer and the owner of the land shall not be liable for, nor shall they pay to the State of Arkansas, any sales or gross receipts taxes or severance taxes upon the sand and gravel.

History. Acts 1953, No. 345, § 1; A.S.A. 1947, § 76-243; Acts 2017, No. 707, § 386.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department".

27-67-211. Interference with traffic control devices or barricades — Definition.

(a) As used in this section, "traffic control device" means a sign, signal, marking, or device placed or erected for the purpose of regulating, warning, or guiding traffic.

(b) If a traffic control device or barricade is placed or erected to close a public highway under the authority of the Arkansas Department of Transportation or local authorities on public highways, it is unlawful for a person to:

(1) Drive a vehicle through, under, over, or around the traffic control device or barricade; or

(2) Remove the traffic control device or barricade and enter the closed area.

(c) A violation of this section is punishable by a fine of not more than one hundred dollars ($100).

(d) A person convicted under this section shall:

(1) Pay restitution in an amount equal to the actual cost of the emergency response and the replacement of any damaged or lost emergency equipment; and

(2) Be liable for damage to property, or injury or death to a person caused by the violation.

History. Acts 1929, No. 65, § 56; Pope's Dig., § 6906; A.S.A. 1947, § 76-513; Acts 2017, No. 789, § 1.

Amendments. The 2017 amendment substituted "Interference with traffic control devices or barricades" for "Highway closure during construction" in the section heading; and rewrote the section.

27-67-213. Fog lines — White stripes on road edges.

(a) The Arkansas Department of Transportation shall paint and maintain white stripes not less than four inches (4″) in width on both edges of all hard-surfaced primary and secondary state roads with a pavement width of twenty feet (20') or more and carrying one thousand (1,000) or more vehicles daily, which roads are constructed in this state.

(b) The provisions of this section shall not apply to any noncontrolled-access roads in urban areas and any other state highway determined by an engineering study not to warrant such striping.

History. Acts 1969, No. 99, §§ 1, 2; A.S.A. 1947, §§ 76-555, 76-556; Acts 2017, No. 707, § 387.

Amendments. The 2017 amendment, in (a), substituted "Department of Transportation" for "State Highway and Transportation Department" and "a pavement width of twenty feet (20') or more" for "a twenty foot (20') or more pavement width".

27-67-215. Maintenance of detour roads.

(a)(1) When the Arkansas Department of Transportation has been forced to bar traffic from a flooded section of a state highway by putting up signs directing the traffic from the state highway or by stationing state highway employees on the state highway to direct traffic from the state highway over a road surfaced with gravel, crushed stone, or other type of surfacing or pavement, and when it appears that the detour road will continue to be needed, the department shall have authority, as it deems right and proper, to do any repair to the surfacing of the road over which traffic is diverted by the department, as may equal, in the judgment of the department, the amount of wear and tear that is caused to the road by the traffic diverted over it.

(2) However, the department shall only do such maintenance work on the surface of the road as in the judgment of the department it feels that it has caused wear to the surface of the road by reason of the traffic diverted over it from time to time.

(b) In order that this maintenance work may be legally done on such surfaced road, the road used for this purpose shall henceforth be a part of the state highway system.

(c) It is distinctly understood that this section shall not force any maintenance of a road on the department but will merely make it legal for the department to do the amount of maintenance on the surfaced road that it feels it has caused to be needed to the surface of the road by traffic diverted over it by action of the department through its employees.

History. Acts 1939, No. 359, §§ 1, 2; A.S.A. 1947, §§ 76-515, 76-516; Acts 2017, No. 707, § 388.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (a)(1).

27-67-216. Repair of county roads damaged in construction or maintenance of state highway.

The Arkansas Department of Transportation is authorized to make any necessary repairs to a county road to restore the road to its former condition of repair in those instances where damages to the county road may have been occasioned by the department in connection with the construction or maintenance of a state highway or by any contractor performing work upon any state highway under contract with the department.

History. Acts 1963, No. 127, § 1; A.S.A. 1947, § 76-551; Acts 2017, No. 707, § 389.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department".

27-67-217. Direction signs to institutions of higher education.

The Arkansas Department of Transportation shall design, erect, and maintain signs at the closest and all other proper exits and intersections of state and federal highways designating exits to any and all institutions of higher education and postsecondary vocational and technical schools, whether public or private, upon the request of the institution.

History. Acts 1979, No. 584, § 1; 1985, No. 803, § 1; A.S.A. 1947, § 76-564; Acts 2017, No. 707, § 390.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department".

27-67-218. Digging up highways without authorization.

(a) It shall be unlawful for any person to dig up any portion of the state highways or to otherwise disturb them for the purpose of laying pipelines, sewers, poles, wires, ditches, railways, or for any other purpose, except as authorized by an order of the State Highway Commission.

(b)(1) All work shall be done in accordance with the rules that may be prescribed by the commission.

(2) The work shall be done under the supervision of and to the satisfaction of the state highway engineer.

(3) All cost of replacing the highway in as good a condition as it was before being disturbed shall be paid by the person, firm, or corporation to whom or in whose behalf authority is given.

(c)(1) Before the work is done, a check certified by a solvent bank and payable to the commission in an amount to be fixed by the state highway engineer shall be deposited with the commission, to be used by

the commission in restoring the road to its former condition if the person who disturbs the road fails to do so.

(2) The check is to be returned if the road is restored to its former condition by the person doing the work.

(3) Otherwise, the commission shall so restore the highway.

(4) Any balance remaining after the work is paid for by the commission shall be remitted to the person depositing the check.

History. Acts 1929, No. 65, § 57; Pope's Dig., § 6907; A.S.A. 1947, § 76-531; Acts 2019, No. 315, § 3166.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (b)(1).

27-67-219. John Paul Hammerschmidt Highway.

(a) U.S. 71 from the I-40 intersection to the Missouri line shall be designated as the "John Paul Hammerschmidt Highway" within the State of Arkansas.

(b) In addition to that portion of U.S. 71 designated the "John Paul Hammerschmidt Highway" under subsection (a) of this section, that portion of U.S. 71 from its intersection with I-540 in Fort Smith, Arkansas, to the State Highway 10 exit near Greenwood, Arkansas, is hereby designated a part of the John Paul Hammerschmidt Highway.

(c) It shall be the responsibility of the Arkansas Department of Transportation to place appropriate highway identifying signs on the highway.

(d) The department shall erect appropriate signs along the section of the highway designated herein, indicating that the highway has been designated the "John Paul Hammerschmidt Highway".

History. Acts 1989, No. 6, § 1; 1989, No. 535, § 1; 2017, No. 707. § 391.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (c).

27-67-220. The Highway of Hope.

(a) The route along U.S. 67 and State 7 between Hope and Hot Springs regularly traveled by the Honorable Bill Clinton, 42nd President of the United States, during his childhood, is hereby designated "The Highway of Hope".

(b) The Arkansas Department of Transportation shall erect appropriate signs along U.S. 67 and State 7 between Hope and Hot Springs designating the route as "The Highway of Hope".

History. Acts 1993, No. 784, §§ 1, 2; 2017, No. 707, § 392.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (b).

27-67-221. Authority of Arkansas Department of Transportation to inform amateur radio operators of high frequency radio repeaters.

(a) The Arkansas Department of Transportation is authorized to post signs along the public streets and highways of Arkansas to inform persons who are licensed amateur radio operators of the existence of a high frequency radio repeater within a specific local area, provided such signs do not conflict with any rules or regulations of the United States Department of Transportation or the Manual on Uniform Traffic Control Devices.

(b)(1) The Arkansas Department of Transportation is authorized to develop and adopt the appropriate signs showing "TWO-METER RADIO REPEATER AREA" or "AMATEUR RADIO FREQUENCY MONITORED" for use in the designated areas along the public streets and highways under its jurisdiction.

(2) The signs may include the radio frequency of these local repeaters or the frequency being monitored by local radios.

(3)(A) Any local amateur radio operators or any amateur radio club wishing to participate in this program shall be responsible for the costs of preparing and purchasing these signs.

(B)(i) The Arkansas Department of Transportation is authorized to enter into an agreement with the participants to recover those costs.

(ii) The Arkansas Department of Transportation is authorized to prepare and furnish the signs to the local participating radio clubs or operators at cost.

(iii) The Arkansas Department of Transportation is further authorized to erect and maintain the signs at no cost to the local radio clubs or operators.

(c)(1) The Arkansas Department of Transportation is authorized to contact all local amateur radio operators and any amateur radio clubs in Arkansas to inform them of this service.

(2) Any amateur radio operator or radio club that wishes to participate in this program shall notify the Arkansas Department of Transportation of its interest and shall inform the Arkansas Department of Transportation of the radio frequencies which are monitored in its immediate area and the time periods during which they are monitored.

(d)(1) The Arkansas Department of Transportation shall ensure the signs correlate with and, so far as possible, conform to the system of traffic-control devices that are currently in use by the Arkansas Department of Transportation.

(2) The Arkansas Department of Transportation is authorized to erect the signs and review, at least biennially, all areas with signs within its jurisdiction to ensure the area still qualifies for having the signs posted.

(e) The Director of State Highways and Transportation shall have the authority to promulgate any necessary rules to implement this section and establish any conditions and guidelines for participation by any local amateur radio operators or clubs.

History. Acts 1995, No. 1100, §§ 1-4; 2017, No. 707, § 393; 2019, No. 315, § 3167.

Amendments. The 2017 amendment substituted "Arkansas Department of Transportation" for "Highway Department" in the section heading; substituted "Department of Transportation" for "State Highway and Transportation Department" throughout the section; substituted "Director of State Highways and Transportation" for "Director of the Arkansas State Highway and Transportation Department" in (e); deleted former (f); and made stylistic changes.

The 2019 amendment deleted "and regulations" following "rules" in (e).

27-67-222. State police officer highway dedication program — Definition.

(a)(1) "State police officer" means any employee of the Division of Arkansas State Police who holds the rank of state trooper or higher rank, including the Director of the Division of Arkansas State Police.

(2) The term "state police officer" does not include any:

(A) Civilian employee of the division; or

(B) Person who is temporarily employed as a state trooper during an emergency.

(b) A state police officer who has been killed on active duty within the State of Arkansas shall have a one-mile portion of a highway dedicated to him or her at or near the location of his or her death.

(c) The Arkansas Department of Transportation shall designate a one-mile portion of a highway as the "Trooper _____ Memorial Highway" by placing and maintaining appropriate identifying signs with a blue background and reflective silver lettering on the highway.

History. Acts 2007, No. 848, § 1; 2009, No. 483, § 8; 2017, No. 707, § 394; 2019, No. 910, § 6050.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (c).

The 2019 amendment substituted "Division of Arkansas State Police" for "Department of Arkansas State Police" twice in (a)(1) and substituted "division" for "department" in (a)(2)(A).

27-67-223. Rock 'n' Roll Highway 67.

(a) The route along Highway 67 through Jackson County, Lawrence County, Randolph County, and White County regularly traveled by the great legends of early rock 'n' roll is hereby designated "Rock 'n' Roll Highway 67".

(b) The Arkansas Department of Transportation shall erect appropriate signs along Highway 67 through Jackson County, Lawrence County, Randolph County, and White County designating the route as "Rock 'n' Roll Highway 67".

History. Acts 2009, No. 497, § 2; 2013, No. 26, § 1; 2017, No. 707, § 395.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (b).

27-67-224. The Arkansas Wine Country Trail.

(a)(1) To provide more detailed directions on highways, roads, and streets to agritourism vineyards and wineries in the State of Arkansas, the Arkansas Wine Country Trail is established.

(2)(A) The Arkansas Wine Country Trail shall include the highways, roads, and streets that lead to the wineries permitted by the Alcoholic Beverage Control Division of the Department of Finance and Administration that produce wine from Arkansas-grown fruits and vegetables.

(B) The Arkansas Department of Transportation shall determine the location of the Arkansas Wine Country Trail in consultation with the Department of Parks, Heritage, and Tourism.

(3) A winery is eligible to have signs near its facility if it:

(A) Is a winery permitted by the division; and

(B) Offers tours.

(4) The signs shall be of size and shape and of materials designated by the Arkansas Department of Transportation in consultation with the Department of Parks, Heritage, and Tourism.

(b)(1) The sign for the Arkansas Wine Country Trail shall have on it a cluster of grapes in front of a classic bottle of Bordeaux wine with a statement approved by the Arkansas Department of Transportation, a directional arrow, and one (1) of the following phrases:

(A) "Winery Tours";

(B) "Winery and Vineyard Tours";

(C) "Wine Cellar Tours"; or

(D) "Wine Cellar and Vineyard Tours".

(2) Information for proper placement will be made available by the Arkansas Department of Transportation.

(3) This sign, but on a smaller scale, shall be used as the symbol on the state highway map and in all tourism literature published by the Department of Parks, Heritage, and Tourism to indicate the Arkansas Wine Country Trail or individual vineyards, wineries, or cellars that are part of the Arkansas Wine Country Trail.

History. Acts 2011, No. 1052, § 2; 2017, No. 707, § 396; 2019, No. 910, §§ 5725-5727.

A.C.R.C. Notes. Acts 2011, No. 1052, § 1, provided: "The General Assembly finds that:

"(1) Arkansas is known not only for its beautiful and abundant mountains, lakes, rivers, and plateaus, but also for picturesque vineyards and historic wine cellars;

"(2) The vineyards and cellars in the state provide free tours and tastings of first-class, award-winning wines that have garnered medals in national and international competitions;

"(3) Data and statistics from the Department of Parks and Tourism indicate that efforts by Arkansas's grape and wine industry in improving these tour facilities has generated increased tourism and provided a major boost to our economy;

"(4) The states around Arkansas have developed well-marked wine trails that enable more tourists to locate and travel to their vineyards and cellars; and

"(5) The great vineyard and wine agritourism industry should be actively encouraged, and we should assist tourists and travelers in our state to locate the vineyards and wineries that offer free tours by clearly marking the appropriate highways, roads, and streets with signs that have been approved by the Department of Parks and Tourism and the Ar-

kansas State Highway and Transportation Department."

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" throughout the section; and substituted "Arkansas Wine Country Trail" for "trail" in (b)(3).

The 2019 amendment substituted "Department of Parks, Heritage, and Tourism" for "Department of Parks and Tourism" in (a)(2)(B), (a)(4), and (b)(3).

27-67-225. The Gold Star Families Highway.

(a) To honor Arkansas's fallen service members, who have served this great country in the United States Armed Forces, and their families, each of the following routes is designated as a "Gold Star Families Highway":

(1) The route along Highway 163 North from its intersection with Highway 42 to its intersection with Highway 310; and

(2) The route along Wilbur D. Mills Freeway, also known as "I-630", from its intersection with I-30 to its intersection with I-430.

(b) The Arkansas Department of Transportation shall erect appropriate signs designating each route as a "Gold Star Families Highway" along:

(1) Highway 163 North from its intersection with Highway 42 to its intersection with Highway 310; and

(2) I-630 from its intersection with I-30 to its intersection with I-430.

History. Acts 2015, No. 956, § 1; 2017, No. 707, § 397; 2019, No. 1070, § 1.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (b).

The 2019 amendment rewrote the section.

27-67-226. Delta Rhythm & Bayous Highway.

(a) The route along U.S. Highway 65 South from Pine Bluff, Arkansas, to the border between Arkansas and Louisiana is designated the "Delta Rhythm & Bayous Highway".

(b) The Arkansas Department of Transportation shall erect appropriate signs along U.S. Highway 65 South from Pine Bluff, Arkansas, to the border between Arkansas and Louisiana designating the route as the "Delta Rhythm & Bayous Highway", including without limitation a sign in or near each of the following cities:

(1) Dermott;

(2) Dumas;

(3) Gould;

(4) Lake Village;

(5) Pine Bluff; and

(6) Tillar.

(c) If the Arkansas Department of Transportation does not have the funds available to erect the signs required under subsection (b) of this section, the Arkansas Department of Transportation may accept and use gifts, grants, and donations received from private, public, and nonprofit sources, including without limitation a city street department or a county road department for:

(1) Acquiring and installing the signs required under subsection (b) of this section; and

(2) Maintaining, replacing, or reconstructing the signs required under subsection (b) of this section.

History. Acts 2017, No. 451, § 2.

A.C.R.C. Notes. Acts 2017, No. 451, § 1, provided: "Legislative findings. The General Assembly finds that:

"(1) The southeast Arkansas Delta lowlands have a rich culture due in part to a varied musical heritage and the ecology and folklife of Bayou Bartholomew, Bayou Macon, and the many surrounding bayous in the region;

"(2) Some of the most influential musicians, writers, and producers, largely in the development of blues, but also in soul, county, rockabilly, rhythm & blues, gospel, and folk music were from, or achieved musical milestones in, the Arkansas Delta lowlands;

"(3) Significant musical contributions were made to several cities in the region, including Pine Bluff, Gould, Dumas, Grady, Dermott, Lake Village, Tillar, McGehee, and Eudora, Arkansas, by many great music legends including:

"(A) 'Big' Bill Broonzy;

"(B) Jim Ed Brown;

"(C) Johnny Cash;

"(D) Sam Cooke;

"(E) Miles Davis;

"(F) Freddy Fender;

"(G) Elmore James;

"(H) Eddie 'Guitar Slim' Jones;

"(I) Huddie 'Lead Belly' Ledbetter;

"(J) Jerry Lee Lewis;

"(K) Willie Ray 'Smokie' Norful Jr.;

"(L) Charley Patton;

"(M) Art Griswold and Roman Griswold;

"(N) Bobby Rush; and

"(O) Sippie Wallace;

"(4) Bayou Bartholomew runs approximately parallel to U.S. Highway 65 from Pine Bluff, Arkansas, to the border between Arkansas and Louisiana and is:

"(A) The longest bayou in the world;

"(B) The second most biologically diverse stream in North America, inhabited by 117 aquatic species; and

"(C) A national treasure with a historical legacy of American folklife;

"(5) Other regional bayous such as Bayou Macon, reportedly the second longest bayou in the United States, make up a network of streams in the Southeast Arkansas Delta which maintain historical, cultural, and ecological significance;

"(6) The combination of musical heritage and bayou folk traditions make the region an ideal tourist destination for music, nature, and history lovers; and

"(7) The designation of U.S. Highway 65 South from Pine Bluff, Arkansas, to the border between Arkansas and Louisiana as the 'Delta Rhythm & Bayous Highway' is essential to preserve the region's history and to promote the economic development of cities in close proximity to U.S. Highway 65 South."

27-67-227. Arkansas Delta highway designations — Legislative findings.

(a) The General Assembly finds that:

(1) Eastern Arkansas, commonly referred to as the "Arkansas Delta", is known for its rich musical heritage;

(2) Some of the most influential musicians in the development of blues, soul, country, rockabilly, rhythm and blues, gospel, and prison music were from, or achieved musical milestones in, the Arkansas Delta, including:

(A) Johnny Cash;

(B) Levon Helm:

(C) Louis Jordan; and

(D) Sister Rosetta Tharpe;

(3) The Arkansas Delta includes a portion of the Americana Music Triangle, which was a particularly fertile region during the development of American popular music in the middle decades of the twentieth century; and

(4) The designation of certain highways in the Arkansas Delta is essential to preserve the region's history, promote music heritage tourism in the area, and provide a highway travel route for the music enthusiast.

(b) The route along Highway 17 from Dyess, Arkansas, to Wilson, Arkansas, where the boyhood home of Johnny Cash is located, is designated the "Johnny Cash Memorial Highway".

(c) The route along U.S. Highway 49 from Marvell, Arkansas, to Helena, Arkansas, where the boyhood home of Levon Helm is located, is designated the "Levon Helm Memorial Highway".

(d) The route along U.S. Highway 49 from Brinkley, Arkansas, the birthplace of Louis Jordan, to Marvell, Arkansas, is designated the "Louis Jordan Memorial Highway".

(e) The route along Highway 17 from Cotton Plant, Arkansas, the birthplace of Sister Rosetta Tharpe, to Brinkley, Arkansas, is designated the "Sister Rosetta Tharpe Memorial Highway".

(f) The route along U.S. Highway 61 from West Memphis, Arkansas, to Blytheville, Arkansas, a region recognized for its role in the development of Americana music, is designated the "Americana Music Highway".

(g) The Arkansas Department of Transportation shall erect appropriate signs along:

(1) Highway 17 from Dyess, Arkansas, to Wilson, Arkansas, designating the route as the "Johnny Cash Memorial Highway";

(2) U.S. Highway 49 from Marvell, Arkansas, to Helena, Arkansas, designating the route as the "Levon Helm Memorial Highway";

(3) U.S. Highway 49 from Brinkley, Arkansas, to Marvell, Arkansas, designating the route as the "Louis Jordan Memorial Highway";

(4) Highway 17 from Cotton Plant, Arkansas, to Brinkley, Arkansas, designating the route as the "Sister Rosetta Tharpe Memorial Highway"; and

(5) U.S. Highway 61 from West Memphis, Arkansas, to Blytheville, Arkansas, designating the route as the "Americana Music Highway".

History. Acts 2017, No. 810, § 1.

27-67-228. Construction project information signs — Definitions.

(a) As used in this section:

(1) "Construction project information sign" means temporary signs placed at the beginning and end of a public road construction project informing motorists of the:

(A) Public road construction project start date and estimated date of completion; and

(B) Job number assigned to the public road construction project; and

(2) "Public road construction project" means the construction, restoration, reconstruction, renovation, or repair of a road, highway, bridge, overpass, interchange, or right-of-way in which the construction, restoration, reconstruction, renovation, or repair is to be performed or is initiated by the Arkansas Department of Transportation or the State Highway Commission.

(b) The department shall erect appropriate construction project information signs:

(1) At least thirty (30) days before the first day of the public road construction project start date;

(2) For each public road construction project of ten million dollars ($10,000,000) or more; and

(3) In accordance with the rules governing informational signs placed on the highway by the department.

(c) The department, using the job number listed on the construction project information sign erected under subsection (b) of this section, shall post on the department's website specific public road construction project details, including without limitation the:

(1) Start date and estimated date of completion;

(2) Total cost of the contract awarded;

(3) Name of each contractor performing the public road construction project; and

(4) The number of days the contractor is ahead of or behind schedule.

(d) The department may promulgate rules for the administration and implementation of this section.

History. Acts 2017, No. 1070, § 2.

A.C.R.C. Notes. Acts 2017, No. 1070, § 1, provided: "Legislative Findings. The General Assembly finds that:

"(1) The residents of Arkansas depend on the state's highway system and the efficient completion of public road construction projects by the Arkansas State Highway and Transportation Department;

"(2) The department currently provides information on the progress of certain public road construction projects on its website;

"(3) The motoring public expects the department to communicate the progress of major public road construction projects which tend to take more time to complete; and

"(4) Construction project information signs will alleviate the stress caused by major public road construction projects by providing progress updates to the motoring public."

27-67-229. True Grit Trail.

(a) The General Assembly finds that:

(1) True Grit, a novel written by native Arkansan Charles Portis, is considered by some critics to be one of the great American novels;

(2) The novel follows the story of a tenacious young girl as she travels in Arkansas from the Dardanelle area to Fort Smith where she hires a United States Marshal to help her avenge her father's death;

(3) The novel has been adapted into screenplays for two (2) popular movies of the same name; and

(4) The popularity of the tale and the attention it brings to the state make a compelling case for renaming the portion of Arkansas Highway 22 between Dardanelle and Fort Smith the "True Grit Trail".

(b) The route along Arkansas Highway 22 between Dardanelle, Arkansas, and Fort Smith, Arkansas, is designated the "True Grit Trail".

(c) The Arkansas Department of Transportation shall erect appropriate signs along Arkansas Highway 22 between Dardanelle, Arkansas, and Fort Smith, Arkansas, designating the route as the "True Grit Trail".

(d) If the Arkansas Department of Transportation does not have the funds available to erect the signs required under subsection (c) of this section, the Arkansas Department of Transportation may accept and use gifts, grants, and donations received from private, public, and nonprofit sources, including without limitation a city street department or a county road department for:

(1) Acquiring and installing the signs required under subsection (c) of this section; and

(2) Maintaining, replacing, or reconstructing the signs required under subsection (c) of this section.

History. Acts 2019, No. 469, § 1.

Subchapter 3 — Acquisition, Condemnation, and Disposition of Property

SECTION.
27-67-303. Entry for suitability studies.
27-67-306. Leases.
27-67-311. Condemnation petition — Notice.
27-67-316. Condemnation proceedings and judgment.
27-67-317. Payment of award.
27-67-318. Hearing on amount of deposit.
27-67-321. Sale of surplus highway property.
27-67-322. Reacquisition of surplus property by former owner — Definition.
27-67-323. [Repealed.]
27-67-324. Sale of surplus millings material — Definitions.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

27-67-303. Entry for suitability studies.

(a) The Arkansas Department of Transportation and its agents and employees may enter upon real property and make surveys, examinations, photographs, tests, and samplings, or engage in other activities for the purpose of appraising the property or determining whether it is suitable and within the power of the condemnor to take for public use, if the entry is:

(1) Preceded by reasonable efforts to notify the owner, and any other person known to be in actual physical occupancy of the property, of the time, purpose, and scope of the planned entry and activities;

(2) Undertaken during reasonable daylight hours;

(3) Accomplished peaceably and without inflicting substantial injury; and

(4) Not in violation of any other statute.

(b) The entry and activities authorized by this section do not constitute a trespass in the absence of unnecessary damage occurring in effecting the survey or examination.

History. Acts 1979, No. 894, § 1; A.S.A. 1947, § 76-532.1; Acts 2017, No. 707, § 398.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (a).

27-67-306. Leases.

(a) The State Highway Commission, as lessor, may execute lease or rental agreements covering real property, and any interest in that property, including without limitation the right-of-way of any state highway, owned or held by the commission, the use of which for highway purposes is not immediately contemplated, for periods not to exceed five (5) years, upon reasonable terms and conditions.

(b) Any building or other erection remaining on the real property at the expiration of the agreement shall be subject to removal upon thirty (30) days' notice at no expense to the state.

History. Acts 1953, No. 419, § 8; A.S.A. 1947, § 76-547; Acts 2017, No. 964, § 1.

Amendments. The 2017 amendment in (a), substituted "may execute" for "is authorized and empowered to execute", inserted "and any interest in that property, including without limitation the right-of-way of any state highway", and substituted "five (5) years" for "one (1) year"; and, in (b), substituted "on the real property" for "thereon" and substituted "thirty (30)" for "ten (10)".

27-67-311. Condemnation petition — Notice.

(a) The State Highway Commission may exercise its power of eminent domain by filing an appropriate petition in condemnation in the circuit court of the county in which the property sought to be taken is situated, to have the compensation for right-of-way determined, giving the owner of the property to be taken at least ten (10) days' notice in writing of the time and place where the petition will be heard.

(b) If the property sought to be condemned is located in more than one (1) county, the petition may be filed in any circuit court having jurisdiction in any county in which the whole or part of the property may be located. The proceedings had in the circuit court will apply to all such property described in the petition.

(c)(1) If the owner of the property sought to be taken is a nonresident of the state, notice shall be by publication in any newspaper in the county which is authorized by law to publish legal notices. This notice shall be published for the same length of time as may be required in other civil causes.

(2) If there is no such newspaper published in the county, then publication shall be made in a newspaper designated by the circuit clerk, and one (1) written or printed notice thereof posted on the door of the county courthouse.

(d) The condemnation petition shall describe the lands and property sought to be acquired for state highway right-of-way purposes and shall be sworn to.

(e) Where the immediate possession of lands and property is sought to be obtained, the Arkansas Department of Transportation may file a declaration of taking, as provided by § 27-67-312, at any time before judgment or together with the condemnation petition.

History. Acts 1953, No. 419, § 2; A.S.A. 1947, § 76-533; Acts 2017, No. 707, § 399.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (e).

27-67-315. Title vests upon deposit.

CASE NOTES

Cited: City of Siloam Springs v. La-De, LLC, 2015 Ark. 433, 474 S.W.3d 869 (2015).

27-67-316. Condemnation proceedings and judgment.

(a) It shall be the duty of the circuit court to impanel a jury of twelve (12) persons, as in other civil cases, to ascertain the amount of compensation the Arkansas Department of Transportation shall pay.

(b) The matter shall proceed and be determined as in other civil cases.

(c) In all cases of infants or persons of unsound mind, when no legal representative or guardian appears in their behalf at the hearing, it shall be the duty of the court to appoint a guardian ad litem, who shall represent their interest for all purposes.

(d) Compensation shall be ascertained and awarded in the proceeding and established by judgment therein.

(e)(1) Judgment shall include, as a part of the just compensation awarded, interest at the rate of six percent (6%) per annum on the amount finally awarded as the value of the property, from the date of

the surrender of possession to the date of payment, but interest shall not be allowed on so much thereof as may have been paid into court.

(2) No sum so paid into court shall be charged with commission or poundage.

(f) All courts and juries in cases of condemnation of lands for rights-of-way for state highways shall take into consideration the fact that lands are required to be assessed at fifty percent (50%) of their true value and shall also take into consideration the fact that owners of automobiles and trucks living miles off a state highway pay the same gasoline and auto license tax as those being fortunate enough to own land adjoining a state highway. Any court or jury considering claims for right-of-way damages shall deduct from the value of any land taken for a right-of-way the benefits of the state highway to the remaining lands of the owner.

(g) All suits involving the validity of subsection (f) of this section, or any portion thereof, shall be deemed matters of public interest and shall be advanced and disposed of at the earliest possible moment, and appeals in such suits must be taken and perfected within thirty (30) days from the date of the judgment or decree.

History. Acts 1929, No. 205, §§ 1, 3; Pope's Dig., §§ 6962, 6964; Acts 1953, No. 115, § 3; 1953, No. 419, § 2; A.S.A. 1947, §§ 76-512, 76-521, 76-533, 76-536; Acts 2017, No. 707, § 400.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (a); and made a stylistic change.

CASE NOTES

Damages.

In an eminent domain action, where the State Highway Commission deposited $35,350 and the property owner argued that the jury's verdict of $36,000 should be awarded in addition to the deposit money, the question was not one of statutory construction but rather how to construe the jury's verdict, i.e., whether the verdict was intended to be the total compensation or a sum in addition to the amount the Commission had already deposited as the estimated just compensation. KW-DW Props., LLC v. Ark. State Hwy. Comm'n, 2019 Ark. 95, 571 S.W.3d 6 (2019).

Jury's verdict that the State Highway Commission owed a property owner for just compensation in an eminent domain action had to be interpreted to be the entire compensation because the jury instructions clearly stated the amount awarded had to be for damages to the "whole" property after the taking; the property owner did not request special interrogatories and the time to correct any misunderstanding was before the jury was discharged. KW-DW Props., LLC v. Ark. State Hwy. Comm'n, 2019 Ark. 95, 571 S.W.3d 6 (2019).

Substantial evidence supported the jury's $36,000 verdict in an eminent domain case because the amount was within the range of the testimony offered by the property owner's own expert, who testified that comparable acreage had sold from $9,510 per acre to $28,754 per acre, and the jury was entitled to accept or discount the property owner's contention that the remaining land was damaged. KW-DW Props., LLC v. Ark. State Hwy. Comm'n, 2019 Ark. 95, 571 S.W.3d 6 (2019).

27-67-317. Payment of award.

(a) Upon the application of any party in interest and upon due notice to all parties, the court may order that the money deposited in the court, or any part thereof, be paid immediately to the person or persons entitled thereto.

(b) If the compensation finally awarded exceeds the amount of money deposited by twenty percent (20%) or more, the court shall enter judgment against the State of Arkansas and in favor of the party entitled thereto for the amount of the deficiency and shall award the party entitled to judgment its costs, expenses, and reasonable attorney's fees incurred in preparing and conducting the final hearing and adjudication, including without limitation the cost of appraisals and fees for experts.

(c) If the compensation finally awarded is less than the amount of money deposited and paid to the persons entitled thereto, the court shall enter judgment in favor of the State of Arkansas and against the proper parties for the amount of the excess.

History. Acts 1953, No. 115, § 4; A.S.A. 1947, § 76-537; Acts 2013, No. 502, § 2; 2015, No. 1101, § 2.

A.C.R.C. Notes. Acts 2013, No. 502, § 1, provided: "Legislative intent.

"(a) It is the intent of the General Assembly to protect the property rights of the people of the State of Arkansas in eminent domain proceedings initiated by the State Highway Commission because, as stated in Article 2, § 22 of the Arkansas Constitution, the right of property in Arkansas is before and higher than any constitutional sanction and should not be taken without just compensation.

"(b) The General Assembly believes when the Arkansas State Highway and Transportation Department fails to offer the fair market value for condemned property that costs, expenses, and reasonable attorney's fees should be awarded to the land owner to justly compensate the people of the State of Arkansas."

CASE NOTES

Analysis

Applicability.
Municipality.

Applicability.

Subsection (b) did not apply to the jury's verdict that the State Highway Commission owed a property owner for just compensation in an eminent domain action because the amount of compensation finally awarded did not exceed the deposit by 20% or more; and, in any event, the judgment did not cite this section. KW-DW Props., LLC v. Ark. State Hwy. Comm'n, 2019 Ark. 95, 571 S.W.3d 6 (2019).

Municipality.

Trial court erred in awarding attorney's fees to the owners in a condemnation proceeding; while this section clearly allows for an award of a fee against the State, it does not allow for an award of fees against a city, and the city proceeded under its own authority when it was substituted as a party. The city did not assume the State Highway Commission's obligation to pay attorney's fees and gained right of entry to the property by virtue of paying a deposit into the registry of the court pursuant to § 18-15-303. City of Siloam Springs v. La-De, LLC, 2015 Ark. 433, 474 S.W.3d 869 (2015).

27-67-318. Hearing on amount of deposit.

(a) If, after due notice, any party in interest should feel aggrieved at the amount of the estimated compensation as deposited by the Arkansas Department of Transportation into the registry of the circuit court, the party shall be entitled to a hearing, at which time evidence may be heard and received concerning the adequacy of the deposit.

(b) Thereafter, the circuit court shall, in its discretion, determine whether the present deposit is adequate, and if not, shall determine the additional amount which the department shall deposit. Such additional amount ordered deposited shall remain in the registry of the court without withdrawal until final adjudication of just compensation, but the additional deposit shall not prevent the accrual of interest on the difference in the amount of the original deposit and the compensation awarded as provided in §§ 27-67-315 and 27-67-316.

(c) This hearing and adjudication shall in no way interfere with the possession of the premises by the department.

History. Acts 1953, No. 115, § 8; 1963, No. 99, § 1; A.S.A. 1947, § 76-541; Acts 2017, No. 707, § 401.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (a).

27-67-321. Sale of surplus highway property.

(a) The State Highway Commission is empowered and authorized to:

(1) Sell and convey any surplus land or real estate or any personal property or effects procured by or coming to the commission to which the commission or any member or officer therein holds title, or to which title was taken in the name of the State of Arkansas, in the settlement and procuring of rights-of-way for state highways, when lands so procured or obtained are not necessary for highway purposes; and

(2) Sell and dispose of any real estate or other property procured or conveyed to the commission, any member or officer thereof, or to the State of Arkansas, in the settlement of any claims of the state against contractors growing out of or pertaining to any state highway construction or maintenance contract.

(b) Before any sale of real estate or other assets shall be effective, it shall be approved by resolution of the commission in a regular meeting, or a special meeting called for that purpose.

(c) The resolution shall be entered upon a record of the commission to be kept for that purpose, and a certified copy of the resolution signed by the presiding officer of the commission shall be prima facie evidence of its passage and adoption.

(d) When the sale is approved by a resolution of the commission, then the chair or other presiding officer of the commission is authorized to execute to the county, city, incorporated town, person, company, or corporation purchasing the real estate or other property, a deed conveying all the right, title, interest, and equity of the commission, the

Arkansas Department of Transportation, and the State of Arkansas in and to the lands.

(e) Such deeds, when so executed, shall operate to convey to the purchaser any and all right, title, interest, and equity of the commission, the department, and the State of Arkansas in and to the lands so conveyed.

(f) All proceeds arising from such sales shall be paid into and constitute a part of the state highway funds.

History. Acts 1933, No. 124, §§ 1, 2; Pope's Dig., §§ 6497, 6498; A.S.A. 1947, §§ 76-226, 76-227; Acts 2017, No. 707, § 402; 2017, No. 1036, § 1.

Amendments. The 2017 amendment by No. 707 substituted "Department of Transportation" for "State Highway and Transportation Department" in (d).

The 2017 amendment by No. 1036, in (d), substituted "chair" for "chairman" and inserted "county, city, incorporated town".

27-67-322. Reacquisition of surplus property by former owner — Definition.

(a) The State Highway Commission is authorized to sell in the manner provided by § 27-67-321 real or personal property, or an interest in real or personal property, which has been declared by commission resolution to be surplus and for sale.

(b)(1)(A) The owner from whom the property was acquired or his or her heirs, successors, or assigns shall be notified:

(i) In writing at their last known address; or

(ii) By:

(a) A one-time publication in one (1) newspaper either in the county where the real property is located or if a county newspaper does not exist, in one (1) newspaper of statewide circulation; and

(b) A publication placed on the website of the Arkansas Department of Transportation for a period of twenty-one (21) consecutive calendar days.

(B) The newspaper publication required under subdivision (b)(1)(A)(ii) of this section shall:

(i) Identify the real property by:

(a) Legal description consisting of job number and tract number; and

(b) Physical address, if available; and

(ii) Contain a reference or website link to the publication required under subdivision (b)(1)(A)(ii) of this section on the website of the Arkansas Department of Transportation.

(C) The publication placed on the website of the Arkansas Department of Transportation as provided under subdivision (b)(1)(A)(ii) of this section shall contain the legal description of the real property in metes and bounds.

(2) Within sixty (60) days after written notice or publication the owner from whom the property was acquired or his or her heirs, successors, or assigns shall have the option to purchase the property.

(3) If the option to purchase under this section is not exercised within sixty (60) days of written notice or publication, the State Highway Commission may proceed to dispose of the property at public sale or by a negotiated sale.

(c)(1) When an entire right-of-way parcel is declared surplus, it may be reacquired under this option by refunding the price for which it was acquired by the State Highway Commission.

(2) When only a remnant or portion of the original acquisition is declared surplus by the State Highway Commission, it may be reacquired at its market value at the time it is declared surplus.

(3) The market value shall be determined by three (3) appraisers certified or licensed under § 17-14-101 et seq.

(d)(1) When real property or a portion of the real property held as a capital asset by the State Highway Commission is later declared surplus, the owner from whom the property was acquired or his or her heirs, successors, or assigns shall be notified as required under subdivision (b)(1)(B) of this section.

(2)(A) The market value of the real property and improvements at the time the real property is declared surplus shall be determined by two (2) appraisers certified or licensed under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.

(B) However, if the Arkansas Department of Transportation's current assessment of the market value of the real property and improvements is fifty thousand dollars ($50,000) or less, then the market value required under subdivision (d)(2)(A) of this section shall be determined by one (1) appraiser certified or licensed under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.

(3) The option to purchase authorized under subsection (c) of this section shall not apply to a capital asset.

(4) As used in this subsection, "capital asset" means real property acquired by the State Highway Commission and improved by the State Highway Commission with offices, shops, storage yards, or other necessary or auxiliary facilities, or property purchased as an uneconomic remnant.

(e) When any real or personal property acquired for state highway purposes is either sold or returned to the owner from whom it was acquired and the price paid is refunded, any county that participated in the cost of the acquisition of the property shall share in the amount obtained from the sale, or the amount refunded, in the proportion in which it shared in the cost of acquisition.

(f)(1) The transfer of surplus rail and other railroad track material purchased in part with federal transportation enhancement funds and granted to the State Parks, Recreation, and Travel Commission or the Department of Parks, Heritage, and Tourism, or both, by the State Highway Commission shall not be subject to the procedures set forth in subsections (a)-(e) of this section.

(2) Surplus rail and other track material described under this subsection may be transferred by gift or contract to a regional intermodal facilities authority, a metropolitan port authority, or a planning and development district.

(3) The purposes of this subsection shall be satisfied upon:

(A) The adoption of a resolution by the State Highway Commission that the transfer will promote the continuation of rail service, economic development, or industrial growth; and

(B) A transfer document executed by the State Parks, Recreation, and Travel Commission or the Department of Parks, Heritage, and Tourism, or both.

History. Acts 1953, No. 419, § 9; A.S.A. 1947, § 76-548; Acts 2007, No. 562, § 1; 2009, No. 483, § 9; 2013, No. 764, §[2]; 2017, No. 1036, §§ 2, 3; 2019, No. 910, §§ 5728, 5729; 2021, No. 783, § 1.

Amendments. The 2017 amendment rewrote (b)(1); deleted "first" preceding "publication" in (b)(2) and (b)(3); in (b)(3), substituted "State Highway Commission" for "commission", and added "or by a negotiated sale"; rewrote (d)(1) and (d)(2); and added (d)(3) and (d)(4).

The 2019 amendment substituted "Department of Parks, Heritage, and Tourism" for "Department of Parks and Tourism" in (f)(1) and (f)(3(B).

The 2021 amendment substituted "two (2) appraisers" for "three (3) appraisers" in (d)(2)(A); and added (d)(2)(B).

27-67-323. [Repealed.]

Publisher's Notes. This section, concerning reacquisition of abandoned land by city or town, was repealed by Acts 2017, No. 1036, § 4. The section was derived from Acts 1967, No. 394, § 1; A.S.A. 1947, § 76-552.

27-67-324. Sale of surplus millings material — Definitions.

(a) As used in this section:

(1) "Highway construction contract" means a contract for the construction, restoration, reconstruction, renovation, or repair of a road, highway, bridge, overpass, interchange, right-of-way, or turnpike that is part of the state highway system;

(2) "Project terminus" means the starting location and ending location of an Arkansas Department of Transportation highway construction project;

(3) "Road millings" means recycled asphalt, concrete, or any other type of roadway that has been ground up in a milling machine and restored to the necessary consistency for creating fresh pavement; and

(4) "Surplus millings material" means excess or unused road millings resulting from the construction, improvement, rehabilitation, or replacement of a state highway.

(b)(1) For highway construction projects under a highway construction contract administered by the department in which asphalt cold milling operations are limited to the project terminus, all road millings generated from the asphalt cold milling operations at the project terminus shall be offered at no cost to the county within which the road millings are generated.

(2) For all other highway construction projects under a highway construction contract administered by the department, all or a portion of the surplus millings material generated from the asphalt cold milling operations shall be offered at no cost to the county within which the road millings are generated.

(3) Road millings and surplus millings material offered to the county under subdivisions (b)(1) and (2) of this section that are not accepted by the county shall be offered by the department at no cost to the counties adjacent to the county within which the road millings and surplus millings material are generated on a first-come, first-served basis.

(4) Road millings and surplus millings material accepted by a county may be transferred at no cost to any adjacent counties.

(c) Any existing road millings and surplus millings material held by the department may be offered to any county at the request of the county on a first-come, first-served basis.

(d)(1) The receipt by a county of road millings and surplus millings material is without guarantees from or further obligation by the department.

(2) The county is responsible for determining if the road millings or surplus millings material is suitable for the county's intended use.

(3) The department is not responsible for inspection of or guarantees as to the condition, state, or suitability of the road millings or surplus millings material for the county's intended use.

(e) This section does not create a cause of action against the department for damages arising from the use of the road millings or surplus millings material accepted by the county under this section.

(f) The county shall retrieve and transport the road millings or surplus millings material as directed by the department.

(g)(1) Road millings and surplus millings material accepted by the county shall only be used for projects within the county.

(2) The department may decline to offer future road millings or surplus road millings material to a county that fails to comply with subdivision (g)(1) of this section.

History. Acts 2021, No. 983, § 1.

CHAPTER 68

CONTROLLED-ACCESS FACILITIES

27-68-103. Penalties.

CASE NOTES

Probable Cause.

Where the Government mistakenly stated during a suppression hearing that it was not asserting § 27-51-302 as the basis for a traffic stop, the Government did not waive its right to argue that § 27-51-302 provided a valid basis for the stop; even though an officer testified that this section was the subjective basis for the stop, § 27-51-302 could still provide the objective legal justification needed to support probable cause for the stop. United

States v. Demilia, 771 F.3d 1051 (8th Cir. 2014).

CHAPTER 69

MISSISSIPPI RIVER PARKWAY (GREAT RIVER ROAD)

SUBCHAPTER.

1. Establishment and Regulation.
2. Mississippi River Parkway Commission of Arkansas.

Subchapter 1 — Establishment and Regulation

SECTION.

27-69-102. Department acquisition of land and conveyance to the United States.
27-69-104. Powers and duties of state agencies.
27-69-107. Use of existing or projected highways.

27-69-102. Department acquisition of land and conveyance to the United States.

(a) The Arkansas Department of Transportation is designated, authorized, and directed as the state agency of this state to acquire by gift, purchase, or condemnation as a public highway and convey to the United States all parkway lands and easements as and when required by surveys and maps hereafter approved by the United States Secretary of the Interior.

(b) If, as a result of required surveys, maps, and estimates, the United States Secretary of the Interior shall be satisfied that one (1) or more desirable parkway routes are available and the President of the United States shall approve thereof, then the department may accept donations of and acquire lands, interests in lands, islands, waters, easements, and other properties bordering the Mississippi River. Thereafter the department may convey them to the United States on behalf of this state or of its political subdivisions. Private parties may convey necessary or convenient properties or easements for the projected parkway, together with sites in connection therewith acquired or to be acquired for recreational or naturalistic purposes.

(c) Thereafter, the areas together with the parkway right-of-way of a width sufficient to include the road and all bridges, ditches, cuts, and fills appurtenant thereto shall constitute the national parkway in this state.

History. Acts 1939, No. 45, §§ 1, 3; A.S.A. 1947, §§ 76-1801, 76-1803; Acts 2017, No. 707, § 403.

Amendments. The 2017 amendment, in (a), substituted "Department of Transportation" for "State Highway and Transportation Department", and inserted "United "States".

27-69-104. Powers and duties of state agencies.

The Arkansas Department of Transportation or other departments of the state are authorized to:

(1) Acquire and convey to the United States parkway areas in accordance with the provisions of this subchapter;

(2) Allocate necessary funds when appropriations are available therefor for the acquisition of parkway areas and for other purposes outlined below as and when needed;

(3) Arrange for or rearrange fencing, cattle passes, or piping water supply to adjoining landowners; change overhead wires; construct underground wire and pipe crossings; reconstruct public and private roads; make surveys, and prepare land maps and conduct condemnation suits, all without cost to the United States;

(4) Exercise the right of eminent domain to appropriate and condemn land or waters of sufficient width to conform to the requirements of this subchapter and to convey them to the United States for parkway, easement, recreation, or conservation purposes with title to the land vesting in the state upon institution of such proceedings; and to acquire by fee simple areas, scenic and other easements and areas requested for revetments, quarries, gravel, dredging, and borrow pits found necessary for parkway construction;

(5) Have its representatives and those of the United States enter upon private lands for the purpose of making surveys; to hold the United States free and harmless from claims arising from the surveys, development, construction, maintenance, and operation of the parkway undertaken by the United States on such property; and to protect parkway areas by state authority after acquisition by the state and acceptance by the United States Secretary of the Interior until such time prior or subsequent to construction as the condemnee shall have received full compensation therefor from the state;

(6) Provide for the relocation or abandonment of sections of local, public, and private roads, or of railroads by agreement therewith, on parkway land as may be necessitated by the design and construction of the parkway when such relocation or abandonment does not interfere with flood control projects or rulings of the Arkansas Public Service Commission;

(7) Convey all or portions of state-owned areas and state-owned easements to the United States of sufficient amount to conform to the requirements of this subchapter when the parkway extends through state-owned areas or absorbs state-owned easements;

(8) Assume indebtedness or secure releases therefrom through irrigation, flood control, drainage, or other political districts or subdivisions wherever outstanding indebtedness exists therein;

(9) Provide for the concurrent jurisdiction of this state over the parkway areas after title thereto becomes vested in the United States;

(10) Permit, as soon as the route of the parkway shall be determined, the immediate payment of premiums on standing timber, pending final

purchase in order to discourage timber cutting by owners during the negotiation period or the execution of leases in advance of possession, satisfactory to the United States Secretary of the Interior;

(11) Permit the elimination of existing and the denial of new frontage or access rights to the parkway motor vehicle road and on parkway land to landowners whose land abuts the parkway land by one (1) or more of the following remedies: purchase of residual tracts, acquisition by excess condemnation, provision of other means of access to public highways, acquisition of private rights-of-way, or adjustment of damages;

(12) Require the elimination of stock grazing on parkway land or the unrestricted use therefor of such land by adjacent landowners;

(13) Undertake preliminary surveys and preparation of topographical plats of the flagged locations of the parkway road for the purpose of aiding the federal engineers in determining the final location of the parkway road and right-of-way boundaries; and

(14) Construct, relocate, or abandon any local, public, or service road, crossing or parallel to the parkway road on parkway land, when requested by the United States Secretary of the Interior.

History. Acts 1939, No. 45, §§ 6, 11; A.S.A. 1947, §§ 76-1806, 76-1811; Acts 2017, No. 707, § 404.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in the introductory language.

27-69-107. Use of existing or projected highways.

(a) When the construction of sections of the parkway road parallel to existing highways will result in unnecessary expense and the United States Secretary of the Interior may, in his or her discretion, use existing or projected sections of streets or highways, bridges, parks, or other areas as connecting links between other sections of this parkway, and federal funds may be expended for parkway purposes thereon under the provisions of this subchapter, no parkway area credits need be allowed the state.

(b) In the event it is determined that the connecting links of highways should provide for other than passenger car traffic, a cooperative agreement with respect to use and the reconstruction, maintenance, and control thereof may be entered into by the United States Secretary of the Interior with the Arkansas Department of Transportation or local public authorities concerned.

History. Acts 1939, No. 45, § 8; A.S.A. 1947, § 76-1808; Acts 2017, No. 707, § 405.

Amendments. The 2017 amendment, in (b), substituted "United States Secretary of the Interior" for "Secretary" and "Department of Transportation" for "State Highway and Transportation Department".

Subchapter 2 — Mississippi River Parkway Commission of Arkansas

SECTION.
27-69-204. National affiliation — Advisory capacity.
SECTION.
27-69-205. Advisors and assistants.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

27-69-204. National affiliation — Advisory capacity.

(a) The Mississippi River Parkway Commission of Arkansas created herein shall be an affiliate of the National Mississippi River Parkway Commission and shall cooperate with and assist the National Mississippi River Parkway Commission in promoting interest in, and the development and use of, the Great River Road as designated by the Federal Highway Administration. It shall also serve in an advisory capacity to the Arkansas Department of Transportation in regard to the exercise of the powers and duties granted the department by § 27-69-101 et seq.

(b) The Chair of the Mississippi River Parkway Commission of Arkansas shall be the Arkansas representative on the National Mississippi River Parkway Commission.

History. Acts 1961, No. 151, § 4; A.S.A. 1947, § 76-1815; Acts 2017, No. 707, § 406.

Amendments. The 2017 amendment, in (a), inserted "of Arkansas", deleted "Planning" following the second occurrence of "River Parkway", substituted "Federal Highway Administration" for "Federal Bureau of Roads", and substituted "Department of Transportation" for "State Highway and Transportation Department"; and inserted "of Arkansas" in (b).

27-69-205. Advisors and assistants.

The Director of State Highways and Transportation shall designate one (1) employee of the Arkansas Department of Transportation who is an engineer or who has engineering experience, and the Secretary of the Department of Parks, Heritage, and Tourism shall appoint one (1) member of his or her staff, who shall advise and assist the Mississippi

River Parkway Commission of Arkansas in carrying out its functions and duties under this subchapter.

History. Acts 1961, No. 151, § 5; A.S.A. 1947, § 76-1816; Acts 2017, No. 707, § 407; 2019, No. 910, § 5730.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department", and inserted "of Arkansas".

The 2019 amendment substituted "Secretary of the Department of Parks, Heritage, and Tourism" for "Director of the Department of Parks and Tourism".

CHAPTER 70

HIGHWAY REVENUE DISTRIBUTION

SUBCHAPTER.

1. General Provisions.
2. Arkansas Highway Revenue Distribution Law.

Subchapter 1 — General Provisions

SECTION.

27-70-101. Certification of vouchers, etc.
27-70-102. Certification of amounts due — Distribution.

27-70-101. Certification of vouchers, etc.

(a) The designated disbursing officers for the Arkansas Department of Transportation are hereby authorized to complete and sign one (1) certification for each state voucher or other designated document that authorizes the Auditor of State, or other official, to draw a state warrant or check on a fund administered by the Arkansas Department of Transportation.

(b) The voucher or other authorizing document can consist of one (1) or more pages and in the event that more than one (1) page is used, then the designated disbursing officer is to manually sign the last page only, and any certification is to be so worded that it will apply to all pages of the document.

History. Acts 1991, No. 872, § 16; 2017, No. 707, § 408.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" twice in (a).

27-70-102. Certification of amounts due — Distribution.

(a) The Arkansas Department of Transportation, through the Director of State Highways and Transportation, is authorized to certify to the Treasurer of State, Auditor of State, and the Chief Fiscal Officer of the State any amount that is due the department from a city or county of this state.

(b) Upon certification, the Treasurer of State, Auditor of State, and the Chief Fiscal Officer of the State shall record and transfer the

amount so certified from the funds next to be distributed to the designated city or county, under the provisions of the Arkansas Highway Revenue Distribution Law, § 27-70-201 et seq., to the fund designated by the department. The amount may be a lump sum or in installments, as instructed by the department.

History. Acts 1987, No. 742, § 20; 2017, No. 707, § 409.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (a).

Subchapter 2 — Arkansas Highway Revenue Distribution Law

SECTION.
27-70-202. Definition.
27-70-204. Interest on funds of Arkansas Department of Transportation.
27-70-206. Distribution to state funds.
27-70-207. Distribution to county and city funds — Definition.
27-70-208. Disposition of gross receipts taxes on gasohol.

Effective Dates. Acts 2011, No. 1032, § 3: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that city streets are in an extreme state of disrepair, particularly in rural municipalities; that municipalities are without an adequate program or adequate funding to allow for significant, long-term, corrective action to repair their streets; and that this act is necessary to initiate a program of remediation for municipal streets with the involvement and consent of the Arkansas State Highway and Transportation Department so that municipalities can increase the prospects of economic and social development across the state by improving their streets. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

Acts 2016 (3rd Ex. Sess.), No. 1, § 23: July 1, 2016. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that Arkansas bridges and roads are in need of repair and proper maintenance; that the repair and proper maintenance of Arkansas bridges and roads are necessary for the preservation of the public peace, health, and safety; that increased funding is essential to the repair and proper maintenance of Arkansas bridges and roads; that this act is designed to provide the necessary funding that is essential to the repair and proper maintenance of Arkansas bridges and roads, and this act is necessary because without this increased funding, the repair and proper maintenance of Arkansas bridges and roads may not be performed. Therefore, an emergency is declared to exist, and Sections 1-8, 13, 15, 18-21 of this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2016."

Acts 2017, No. 555, § 8: July 1, 2017. Emergency clause provided: "It is found and determined by the General Assembly that this act amends the investment and transfer authority of the Treasurer of State; that this act affects the ability of the Treasurer of State to invest and transfer state funds; and that this act should become effective as soon as possible to allow for implementation of the new provisions to benefit the State of Arkansas. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2017."

Acts 2017, No. 704, § 3: Jan. 1, 2018.

Acts 2019, No. 747, § 16: July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of

funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2019 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2019 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2019."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

Acts 2021, No. 438, § 4: Mar. 24, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that federal population data from the federal decennial or special census is required for the Treasurer of State to distribute moneys generated from municipal general and street turnback, and existing county sales and use taxes; that a procedure is necessary to allow a municipality that incorporates during a federal decennial census and is unable to obtain a special census to use alternative population data for the purpose of distributing municipal general and street turnback and county sales tax funds; that without a proper procedure in place, a newly incorporated municipality may not have federal census data until 2022 and will not be able to receive proper disbursement of general and special turnback funds or disbursement of the county tax; and that this act is immediately necessary because without it a newly incorporated municipality cannot provide its inhabitants with services that are necessary for the health, safety, and welfare of the community. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

27-70-202. Definition.

(a) As used in this subchapter, unless the context otherwise requires, "highway revenues" means and includes the following special revenues:

(1) Fees for the registration and licensing of motor vehicles, levied and collected under §§ 27-14-305, 27-14-601, 27-14-603, 27-14-605, 27-14-702, 27-14-704, 27-14-709, 27-14-716, 27-14-717, 27-14-914, 27-14-915, § 27-14-501 et seq., § 27-14-1101 et seq., the Permanent Trailer Licensing Act of 1979, § 27-14-1201 et seq., § 27-14-1301 et seq., § 27-14-1401 et seq., § 27-14-1501 et seq., § 27-14-1801 et seq., § 27-14-1901 et seq., § 27-14-2101 et seq., and § 27-15-101 et seq., except motor vehicle in-transit taxes and drive-out tag fees levied, respectively, under §§ 27-14-1805 and 27-14-2104;

(2) Taxes levied and collected under the Motor Fuel Tax Law, § 26-55-201 et seq., and the Special Motor Fuels Tax Law, § 26-56-101 et seq., commonly referred to, and denominated by the Secretary of the Department of Finance and Administration for tax distribution purposes, as the "gasoline tax"; and

(3) Ninety-five percent (95%) of the severance tax levied and collected on natural gas under § 26-58-111(5).

(b) For the purposes of this section, any penalties, fines, charges, or other amounts paid in connection with or in lieu of any of the foregoing enumeration shall be deemed, unless otherwise expressly provided for by law, to be highway revenues and shall be added to and considered as a part of the particular foregoing enumeration to which it shall respectively belong.

History. Acts 1965 (1st Ex. Sess.), No. 39, § 2; A.S.A. 1947, § 76-331; Acts 2008 (1st Ex. Sess.), No. 4, § 11; 2008 (1st Ex. Sess.), No. 5, § 11; 2019, No. 910, § 4815.

Amendments. The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (a)(2).

27-70-204. Interest on funds of Arkansas Department of Transportation.

(a) On the second business day that the State Treasury is open after the twenty-fifth day of the month, the Treasurer of State shall compute the balance of the State Highway and Transportation Department Fund, including all internal accounts and funds, including, but not limited to, the State Highway Special Construction Account, the State Aid Road Fund, the State Aid Street Fund, the State Highway and Transportation Department Fund, and any other funds administered by the Arkansas Department of Transportation during the preceding month and shall transfer on that day to the State Highway and Transportation Department Fund interest on the balance to be computed as authorized under § 19-3-518(d)(4), excluding the interest rate paid on open account deposits, during the preceding month.

(b)(1) Except as provided in subdivision (b)(2) of this section, interest earned on the accounts described in subsection (a) of this section shall be classified as special revenues to be used as authorized under § 19-6-405.

(2) Interest income generated from the Arkansas Four-Lane Highway Construction and Improvement Bond Account shall be distributed as required under § 27-70-206.

History. Acts 1979, No. 438, §§ 1, 2; A.S.A. 1947, §§ 76-332.1, 76-332.2; Acts 2011, No. 1032, § 1; 2017, No. 555, § 7; 2017, No. 704, § 1; 2017, No. 707, § 410.

Amendments. The 2017 amendment by No. 555, in (a), substituted "second business day that the State Treasury is open after the twenty-fifth day" for "first day of business", deleted "average daily" preceding "balance" twice, and substituted "as authorized under § 19-3-518(d)(4)" for "at a rate equivalent to the average rate of interest earned on all State Treasury funds invested".

The 2017 amendment by No. 704 redesignated former (b) as (b)(1); in (b)(1), sub-

stituted "Except as provided in subdivision (b)(2) of this section" for "All" and "to be used as authorized under § 19-6-405" for "and the net amount shall be distributed as provided by this subchapter"; and added (b)(2).

The 2017 amendment by No. 707 substituted "funds of Arkansas Department of Transportation" for "state highway department funds" in the section heading; and substituted "Department of Transportation" for "State Highway and Transportation Department" in (a).

Effective Dates. Acts 2017, No. 704, § 3: Jan. 1, 2018.

27-70-206. Distribution to state funds.

Excluding the interest income classified as special revenue under § 27-70-204(b)(1), all highway revenues which are available for distribution during each fiscal year shall be transferred to the following State Treasury funds, and in the order specified, with transfers to be made monthly until all available revenues have been transferred:

(1) First, except as provided by § 19-5-207, three percent (3%) of the amount thereof to the Constitutional Officers Fund and the State Central Services Fund, there to be used for the purposes specified for each fund by the Revenue Stabilization Law, § 19-5-101 et seq.;

(2) Next, to the Gasoline Tax Refund Fund, such amount as the Secretary of the Department of Finance and Administration shall, from time to time, certify to the Treasurer of State as being necessary to pay approved gasoline tax refund claims under the provisions of §§ 26-55-301 — 26-55-321 [repealed] and §§ 26-55-401 — 26-55-408, or other applicable law. However, the aggregate total amount of all transfers under this subdivision (2) shall not exceed two million five hundred thousand dollars ($2,500,000) during any fiscal year; and

(3) After meeting the requirements set out in subdivisions (1) and (2) of this section, all remaining highway revenues which are available for distribution during each fiscal year shall be transferred in the following manner: Fifteen percent (15%) of the amount thereof to the County Aid Fund; fifteen percent (15%) of the amount thereof to the Municipal Aid Fund; and seventy percent (70%) of the amount thereof to the State Highway and Transportation Department Fund.

History. Acts 1965 (1st Ex. Sess.), No. 39, § 4; A.S.A. 1947, § 76-333; Acts 2016 (3rd Ex. Sess.), No. 1, § 18; 2017, No. 704, § 2; 2019, No. 910, § 4816.

A.C.R.C. Notes. Acts 2016 (3rd Ex. Sess.), No. 1, § 1, provided: "This act shall be known and may be cited as the 'Arkansas Highway Improvement Plan of 2016'."

Amendments. The 2017 amendment added "Excluding the interest income classified as special revenue under § 27-70-204(b)(1)" in the introductory language.

The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (2).

Effective Dates. Acts 2017, No. 704, § 3: Jan. 1, 2018.

27-70-207. Distribution to county and city funds — Definition.

(a) As used in this section, "public transportation" means a conveyance of human passengers by bus, van, or any other ground surface vehicle that is:

(1) Provided to the general public or selected groups of the public on a regular or continuing basis; and

(2) Operated by a city, county, or any other person or entity under a contract or agreement with a city or county.

(b)(1)(A) With the exception of those revenues transferred pursuant to Section 2 of the Highway Improvement Revenue Act of 2007, all highway revenues transferred to the County Aid Fund under this subchapter shall be paid over by the Treasurer of State to the treasurers of the respective counties of this state for credit to the county highway fund, there to be used for transportation projects as deemed beneficial by the county to include without limitation:

(i) The maintenance, construction, and reconstruction of roads and bridges in the county highway system and for other surface transportation;

(ii) Public transportation; or

(iii) Any other transportation system improvement or service within the political subdivision, including without limitation those projects defined as a transportation system under § 27-76-103 regardless of whether or not the political subdivision is a member of a regional mobility authority.

(B) A county may also use these funds to construct and maintain parking for county courthouses, county administration buildings, county health units, and county parks and to construct and maintain sidewalks that serve county courthouses, county administration buildings, county health units, county parks, public schools, and other publicly owned property.

(C) A county may use these funds to pay for local projects eligible for funding under state programs of the Arkansas Department of Transportation and the State Highway Commission and under federal programs of the Federal Highway Administration and the Federal Transit Administration.

(D) Furthermore, the funds may be used to install and maintain traffic signals where needed to preserve public health, safety, and welfare.

(E) A county may provide these funds to a regional mobility authority to match federal transportation funds for the financing of surface transportation system improvements on state highways, county roads, and city streets.

(2)(A) Funds disbursed to the County Aid Fund pursuant to Section 2 of the Highway Improvement Revenue Act of 2007 may be expended by the counties on any legitimate county purpose and are not limited to the uses set forth in subdivision (b)(1) of this section.

(B) Funds disbursed to the County Aid Fund pursuant to Section 2 of the Highway Improvement Revenue Act of 2007 shall be distributed to the various counties as are other funds contained in the County Aid Fund pursuant to subdivision (b)(3) of this section.

(3) The Treasurer of State shall on or before the tenth day next following the last day of each calendar month make distribution of the revenues on the following basis:

(A) Thirty-one percent (31%) of the amount according to area, with each county to receive the proportion that its area bears to the area of the state;

(B) Seventeen and one-half percent (17.5%) of the amount according to the amount of state motor vehicle license fees collected in the calendar year next preceding any distribution as certified to the Treasurer of State by the Secretary of the Department of Finance and Administration, with each county to receive the proportion that the total of fees collected from the county bears to the total of fees collected in the state;

(C) Seventeen and one-half percent (17.5%) of the amount according to population based upon the most recent federal decennial census, with each county to receive the proportion that its population bears to the population of the state;

(D) Thirteen and one-half percent (13.5%) of the amount according to rural population based upon the most recent federal decennial census, with each county to receive the proportion that its rural population bears to the rural population of the state; and

(E) Twenty and one-half percent (20.5%) of the amount shall be divided equally among the seventy-five (75) counties.

(c)(1)(A) With the exception of those revenues transferred pursuant to Section 2 of the Highway Improvement Revenue Act of 2007, all highway revenues transferred to the Municipal Aid Fund under this subchapter shall be paid over by the Treasurer of State by direct deposit to the treasurers of the respective cities of the first class, cities of the second class, and incorporated towns for credit to the street fund, there to be used for transportation projects as deemed beneficial by the governing body of the political subdivision to include without limitation:

(i) The maintenance, construction, and reconstruction of streets that are not continuations of state highways and for other surface transportation;

(ii) Public transportation; or

(iii) Any other transportation system improvement or service within the political subdivision, including without limitation those projects defined as a transportation system under § 27-76-103, regardless of whether or not the political subdivision is a member of a regional mobility authority.

(B) A city may provide these funds to a regional mobility authority to match federal transportation funds for the financing of surface transportation system improvements on state highways, county roads, and city streets.

(C) A city may use these funds to construct and maintain parking for city administration buildings, city recreation buildings, and city parks, and to construct and maintain sidewalks that serve city administration buildings, city recreational buildings, city-owned parking lots, city-owned parking decks, and city parks.

(2)(A) The Treasurer of State shall on or before the tenth day next following the last day of each calendar month make distribution of

the funds on the basis of population according to the most recent federal census, with the amount to be paid over to each city or incorporated town in the proportion that its population bears to the total population of all cities and towns.

(B) If a municipality incorporates during a year in which a federal decennial census is conducted, then for purposes of this section and until data from a federal decennial or special census is made available to the municipality, the population of the municipality shall be based on the most recent federal decennial census as calculated by the Arkansas Geographic Information Systems Office.

(3)(A) Beginning on July 28, 2021, if a city or incorporated town has spent funds credited to the street fund in a manner inconsistent with the purposes required by subdivision (c)(1) of this section, the city or incorporated town shall repay the funds that were not used in accordance with subdivision (c)(1) of this section to the street fund from the city's or incorporated town's general revenue by the end of the following fiscal year.

(B) A city or incorporated town is not eligible to receive highway revenues under subdivision (c)(1) of this section until the city or incorporated town:

(i) Repays the entirety of the funds owed to the street fund, including any funds owed prior to July 28, 2021, as required under subdivision (c)(3)(A) of this section; or

(ii) Passes an ordinance or a resolution committing to pay and pays ten percent (10%) of the city's or incorporated town's general revenue to the street fund each year until the funds owed are repaid.

(C) However, if a city or incorporated town is unable to repay the funds owed as required by subdivision (c)(3)(B) of this section, the city or incorporated town may request the approval of the Legislative Joint Auditing Committee to pass an ordinance or resolution committing to pay a percentage less than ten percent (10%) of the city's or incorporated town's general revenue to the street fund each year until the funds owed are repaid.

(4)(A) If the Legislative Joint Auditing Committee is presented with a finding that a city or incorporated town spent funds credited to the street fund in a manner inconsistent with the purposes specified in subdivision (c)(1) of this section or that the city or incorporated town failed to make a repayment owed under subdivision (c)(3)(B)(ii) or subdivision (c)(3)(C) of this section, the Legislative Joint Auditing Committee may provide notice of the finding to the:

(i) Treasurer of State; and

(ii) The city's or incorporated town's officials or employees authorized to prevent or correct the inconsistent spending.

(B) Upon notice of a finding from the Legislative Joint Auditing Committee under subdivision (c)(4)(A) of this section, the Treasurer of State shall:

(i) Confirm with Arkansas Legislative Audit within thirty (30) days of being notified by the Legislative Joint Auditing Committee

that a city or incorporated town spent funds credited to the street fund in a manner inconsistent with the purposes required by subdivision (c)(1) of this section or failed to make a repayment owed under subdivision (c)(3)(B)(ii) or subdivision (c)(3)(C) of this section; and

(ii) Withhold highway revenues under subdivision (c)(1) of this section until the entirety of the funds owed are repaid by the city or incorporated town to the street fund.

(5)(A) Funds disbursed to the Municipal Aid Fund pursuant to Section 2 of the Highway Improvement Revenue Act of 2007 may be expended by the cities on any legitimate municipal purpose and are not limited to the uses set forth in subdivision (c)(1) of this section.

(B) Funds disbursed to the Municipal Aid Fund pursuant to Section 2 of the Highway Improvement Revenue Act of 2007 shall be distributed to the various cities as are other funds contained in the Municipal Aid Fund pursuant to subdivision (c)(2) of this section.

(d)(1) All highway revenues transferred to the State Highway and Transportation Department Fund under the provisions of this subchapter shall be used for the construction, reconstruction, and maintenance of highways and bridges in the state highway system.

(2)(A) However, the Arkansas Department of Transportation may use highway revenues transferred to the State Highway and Transportation Department Fund for the installation, upgrading, or improvement of any highway-railroad crossing safety device, railroad crossing traffic control device, warning lights, crossing gates, or other railroad crossing safety devices at public highway railroad crossings and for the construction, reconstruction, and maintenance of any highway-railroad crossing, including the construction or installation of any underpasses or overpasses.

(B) Except for the construction or installation of underpasses or overpasses, the Arkansas Department of Transportation's goal is to expend one dollar ($1.00) of state funds for each dollar of federal funds received to improve railroad crossing safety and to reduce railroad crossing accidents.

(C) It is the intent of this subdivision (d)(2) to encourage the State Highway Commission to continue to upgrade the state's highway-railway crossings with traffic control devices, warning lights, crossing gates, and other appropriate devices in order to increase the safety of persons using the state's highways.

(e) The Department of Finance and Administration shall:

(1) Deposit a total of one cent (1¢) per gallon from revenues distributed under this subchapter from the proceeds derived from existing motor fuel taxes and distillate fuel taxes; and

(2)(A) Permanently dedicate the revenues to the State Aid Street Fund created under § 27-72-407.

(B) The State Aid Street Fund shall aid city streets under the law.

(f) [Repealed.]

History. Acts 1965 (1st Ex. Sess.), No. 39, § 5; 1967, No. 11, § 1; 1967, No. 41, § 1; 1967, No. 417, § 1; 1968 (1st Ex. Sess.), No. 10, § 1; A.S.A. 1947, § 76-334; Acts 1989, No. 371, § 1; 1997, No. 361, § 1; 1999, No. 724, § 1; 2001, No. 1216, § 1; 2003, No. 208, § 1; 2005, No. 2275, § 7; 2007, No. 389, § 2; 2007, No. 1100, § 3; 2011, No. 752, § 1; 2013, No. 1010, § 1; 2017, No. 607, § 1; 2017, No. 707, §§ 411, 412; 2019, No. 133, § 1; 2019, No. 747, § 13; 2019, No. 910, § 4817; 2021, No. 438, § 3; 2021, No. 517, § 1; 2021, No. 709, § 1.

Amendments. The 2017 amendment by No. 607 added (c)(1)(C).

The 2017 amendment by No. 707 substituted "Department of Transportation" for "State Highway and Transportation Department" in (b)(1)(C) and (d)(2)(A); and deleted "of the United States Department of Transportation" at the end of (b)(1)(C).

The 2019 amendment by No. 133 inserted "by direct deposit" in the introductory language of (c)(1)(A).

The 2019 amendment by No. 747 added (f).

The 2019 amendment by No. 910 substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (b)(3)(B).

The 2021 amendment by No. 438 added (c)(2)(B); and redesignated former (c)(2) as (c)(2)(A).

The 2021 amendment by No. 517 repealed (f).

The 2021 amendment by No. 709 deleted "the provisions of" following "under" in the introductory language of (c)(1)(A); inserted (c)(3) and (c)(4); and redesignated former (c)(3) as (c)(5).

27-70-208. Disposition of gross receipts taxes on gasohol.

The gross receipts taxes levied and collected on gasohol shall be used by the Arkansas Department of Transportation to defray, in whole or in part, the cost of constructing, widening, reconstructing, maintaining, resurfacing, or repairing the public highways, and retiring highway indebtedness of this state. These taxes shall be remitted to the department in accordance with this subchapter.

History. Acts 1981, No. 865, § 1; A.S.A. 1947, § 76-334.1; Acts 1989, No. 821, § 13; 2017, No. 707, § 413.

Amendments. The 2017 amendment deleted "which was exempted from the motor fuel tax by Acts 1979, No. 433, § 1E (repealed), and from the special motor fuel tax by Acts 1965 (1st Ex. Sess.), No. 40, Ch. 2, § 2 (repealed)" following "gasohol", and substituted "Department of Transportation" for "State Highway and Transportation Department".

CHAPTER 72

HIGHWAY REVENUES FOR LOCAL AID

SUBCHAPTER.

1. General Provisions.
3. State Aid Roads.
4. State Aid Streets.

Subchapter 1 — General Provisions

SECTION.

27-72-101. Plans and engineering services for county federal-aid secondary road projects.

27-72-101. Plans and engineering services for county federal-aid secondary road projects.

(a) The Arkansas Department of Transportation is authorized and directed to furnish, without cost to counties, all plans and engineering services necessary in connection with all county negotiated contracts for federal-aid secondary road projects in all counties of this state.

(b) The cost of plans and engineering services shall be included in the cost of projects but shall not be chargeable to the county.

History. Acts 1963, No. 263, § 1; A.S.A. 1947, § 76-462; Acts 2017, No. 707, § 414.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (a).

Subchapter 3 — State Aid Roads

SECTION.
27-72-303. Division of State Aid Road Construction.
27-72-304. State aid engineer.
27-72-310. Contracts for work to be performed.
27-72-311. Conditions for use of state aid.
27-72-313. Use of federal-aid secondary road funds.
SECTION.
27-72-320. Advance transfers to county highway funds — Definition.
27-72-321. Advance transfers to county special purpose road accounts.

27-72-303. Division of State Aid Road Construction.

There is created within the Arkansas Department of Transportation a division to be called the Division of State Aid Road Construction.

History. Acts 1973, No. 445, § 8; A.S.A. 1947, § 76-454; Acts 2017, No. 707, § 415.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department".

27-72-304. State aid engineer.

(a) The Division of State Aid Road Construction of the Arkansas Department of Transportation shall be headed by a state aid engineer.

(b) The state aid engineer shall be a registered engineer with at least three (3) years experience as a county road or highway engineer and a thorough knowledge of rural road problems.

(c) The state aid engineer under the direction of the Arkansas Department of Transportation shall have the following powers and duties:

(1) To advise with the county judges of the several counties on all matters of policy, use of funds, uniform standards for state aid roads, safeguards in accounting methods, and other related matters and to cooperate with the several county judges on all matters connected with the laying out and construction of the state aid system of county roads;

(2) To promulgate uniform and reasonable rules and regulations as he or she may deem necessary to effectuate a proper designation of state aid roads to be constructed in each county, the methods for

determining priority of construction, the making of surveys, and the preparation of plans and specifications for the construction of state aid roads;

(3) To provide a uniform system of accounting in the expenditure of state aid road funds;

(4) To prepare and promulgate practical uniform design standards and specifications for the construction of state aid roads in such a way as to get the most miles for each dollar, with the prime consideration being to provide economical, utilitarian paved roads suitable for rural needs, not to accommodate relatively large amounts of traffic or to be designed for high speed transportation. These uniform design standards and specifications may be modified or amended from time to time as the state aid engineer deems necessary;

(5) To advise and cooperate with the county judges in the selection and designation of the county roads which are to be made a part of the state aid road system, as provided for in this subchapter, and to approve or disapprove the selection of roads to be made a part of the state aid road system by the respective county judges;

(6) To prepare and to submit to the State Highway Commission all proposed contracts to be let for the construction or reconstruction of state aid roads, but before submitting the contracts to the commission, he or she shall submit them to the county judge of the county in which the work is to be performed in order that the county judge may determine that they include, in all respects, the work the county desires to be done in the county to be paid from its share of state aid funds; and

(7) To personally, or through his or her designated assistants, supervise and inspect all state aid road projects as the work progresses. Upon final completion of any project, the state aid engineer shall cause a final inspection to be made of the project for the purpose of determining whether the project has been completed satisfactorily in accordance with the plans and specifications, and if satisfactorily completed, he or she shall approve payment of the final estimate on the project. No progress or final estimate either on a contract or a force account project shall be paid unless approved in such manner by the state aid engineer, and on all contracts or force accounts projects a percentage of ten percent (10%) of each estimate thereon paid shall be retained until final acceptance of such project.

(d)(1) The state aid engineer shall be subject to the direction of the department.

(2) However, both the state aid engineer and the department shall be bound by the provisions of this section.

History. Acts 1973, No. 445, §§ 8, 9; A.S.A. 1947, §§ 76-454, 76-455; Acts 2017, No. 457, §§ 1-3; 2017, No. 707, § 416.

Amendments. The 2017 amendment by No. 457 deleted "to be appointed by and to serve at the pleasure of the State Highway Commission" at the end of (a); substituted "department" for "commission" in the introductory language of (c); redesignated (d) as (d)(1) and (d)(2); substituted "department" for "commission" in (d)(1) and (d)(2); and, in (d)(2), substituted "However" for "provided" and "of this section" for "hereof".

The 2017 amendment by No. 707 substituted "Department of Transportation" for "State Highway and Transportation Department" in (a).

27-72-310. Contracts for work to be performed.

(a) All proposals covering work to be performed on state aid roads in each county in this state shall be under contract let and approved by the State Highway Commission upon a request from the county judge of the county and in accordance with the procedures prescribed in § 27-67-206, and other laws of this state pertaining to contracts for the construction of state highways, which laws shall be equally applicable to all contracts let by the commission for the construction of state aid roads under this subchapter.

(b) The county judge of any county is authorized to submit bids for work to be performed on state aid roads under the provisions of this subchapter, and nothing contained herein shall be construed to limit or restrict the right of a county judge to submit bids for work to be performed by county forces so long as the bids are in accordance with procedures prescribed in § 27-67-206, and the aggregate cost thereof does not exceed two hundred thousand dollars ($200,000).

History. Acts 1973, No. 445, § 12; 1985, No. 996, § 2; A.S.A. 1947, § 76-458; Acts 1997, No. 1091, § 1; 2007, No. 164, § 1; 2013, No. 299, § 1.

27-72-311. Conditions for use of state aid.

Any county shall be entitled to receive state aid and to expend state aid moneys in conjunction with moneys furnished by said county on state aid roads in such county on projects approved for construction in such county provided:

(1) The state aid system in the county has been designated and approved as provided in this subchapter;

(2)(A) The county has employed a county engineer who is a professional engineer as defined in § 17-30-101 to act on behalf of the county as a whole.

(B) If a county judge is a professional engineer as defined in § 17-30-101, the county judge may perform the duties provided in this section for the county engineer.

(C) A county may contract with the Arkansas Department of Transportation for engineering services instead of employing a county engineer.

(D) The cost of employing a county engineer or contracting with the department for engineering services is paid from the county road funds of the county and is not payable from the County Aid Fund.

(E) Engineering costs on federal-aid projects may be included as a cost item of the projects;

(3) An annual program shall have been filed by the county with the Division of State Aid Road Construction and approved by the state aid engineer and in accordance with the uniform design standards and specifications set up by the state aid engineer. However, the program

may be modified or revised in whole or in part by the state aid engineer, with the agreement of the county involved; and

(4) The county has complied with all rules and regulations promulgated by the state aid engineer.

History. Acts 1973, No. 445, § 10; A.S.A. 1947, § 76-456; Acts 2011, No. 897, § 19; 2017, No. 707, § 417.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (2)(C).

27-72-313. Use of federal-aid secondary road funds.

(a) Each year, fifty percent (50%) of all federal-aid secondary road funds allocated to this state shall be set aside by the State Highway Commission for use on county secondary road projects on the federal-aid secondary roads that are included in the state aid road system.

(b) County funds are to be matched in accordance with the applicable federal law relative thereto.

(c) No federal-aid secondary funds shall be used to match any revenue-sharing funds appropriated hereunder.

(d) Federal-aid secondary road funds that are not committed for use on county secondary federal-aid road projects during any current two-year period shall revert to, and may be used by, the Arkansas Department of Transportation on state secondary highways.

History. Acts 1973, No. 445, § 14; 1975, No. 607, § 4; 1975 (Extended Sess., 1976), No. 1037, § 3; A.S.A. 1947, § 76-460; reen. Acts 1987, No. 863, § 3; 2017, No. 707, § 418.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (d).

27-72-320. Advance transfers to county highway funds — Definition.

(a)(1) Advance transfers may be made to each of the several county highway funds from time to time during the fiscal year in amounts as may be requested by the several county courts and approved by the Chief Fiscal Officer of the State.

(2) The purpose of advance transfers as herein provided includes, but is not limited to, establishing a more consistent monthly revenue accruing to each of the several county highway funds when combining county highway aid with all other sources of county highway fund revenues and providing advance transfers for the purchase of capital equipment and materials utilized in county road construction and maintenance.

(3) However, the aggregate total amount of all transfers to each of the several respective county highway funds during any calendar quarter shall not exceed twenty-five percent (25%) of the estimated total amount of county highway aid funds to be credited to the respective fund for the current fiscal year, based on the then-current official estimate of county highway fund distribution.

(4) In the event no advance transfer to the respective county highway funds is required by a respective county court, the county court shall be permitted to designate the dollar amounts and sequence of payments made to the respective county from the funds apportioned through the provisions of the State Apportionment Fund.

(b)(1) The full amount of all advance transfers made during any fiscal year under subsection (a) of this section shall be repaid during the same fiscal year by transferring moneys in equal payments to the County Road Construction and Maintenance Revolving Fund from moneys designated as county highway aid funds for each respective county receiving advance transfers. Should any condition of circumstance arise wherein the unencumbered cash balance in each respective county highway aid fund account maintained by the Treasurer of State at the end of the fiscal year is insufficient to repay the full amount of the balance owing the County Road Construction and Maintenance Revolving Fund, then the entire unencumbered cash balance in each respective county highway fund account shall be transferred to the County Road Construction and Maintenance Revolving Fund. The balance of any amounts then owing the County Road Construction and Maintenance Revolving Fund by a respective county shall be repaid from the first moneys thereafter credited to that county as county highway aid funds from the State Apportionment Fund. There shall be no exception to this mandate.

(2) For purposes of subsection (a) of this section, the term "unencumbered cash balance" means the respective fund account balance of each of the several counties as reflected by the Treasurer of State's records, less the amount of all warrants legally chargeable to such accounts which are, at the time, outstanding and unpaid.

(c) The interfund transfers authorized to be made under subsection (a) of this section shall be made by the Treasurer of State upon certification of the Chief Fiscal Officer of the State at the request of each of the several county courts.

(d)(1) Advance transfers pursuant to subsection (a) of this section may be made to each of the several counties as may be requested by the several county courts and approved by the Chief Fiscal Officer of the State.

(2) Advance transfer requests shall be duly recorded as county court orders in each of the respective counties requesting advance transfers and shall be filed in a manner and form prescribed by the Chief Fiscal Officer of the State.

(3) Advance transfer requests may be filed only during the thirty-day period next succeeding the date of delivery of the tax books to the county collector, the beginning of a state fiscal year, and the third Monday in November of each year.

(4) The court order shall include a certification by the county court that the official revenue estimate as provided for in § 27-72-318 has been duly filed and recorded.

(5) For each calendar year, it shall be the duty of the county court of each of the several counties requesting advance transfers under the

provisions of subsection (a) of this section to prepare and file annual statements setting forth therein an estimate of the total amount of county highway revenues and general fund revenues anticipated to accrue to each respective fund during the then-current calendar year or any part thereof.

(6) These statements shall be designated and known as the official estimates of county general and county highway fund accrual, and a copy shall be recorded with the county clerk.

(7) In addition to the estimates of the total revenue amounts anticipated to accrue to each respective fund, the county court shall incorporate in each official estimate a listing of all revenue sources and the dollar amounts anticipated to accrue from each source by month of the calendar year.

(8) The listing of revenue sources shall include, but not be limited to, ad valorem tax revenues, collector's commissions, treasurer's commissions, assessor's fund, fees, court fines and costs, state aid, and federal revenue-sharing.

(9) Monthly estimates shall be based on an analysis of the three (3) annual calendar year periods next preceding the current calendar year period.

History. Acts 1975, No. 607, § 2; 1975 (Extended Sess., 1976), No. 1037, § 1; A.S.A. 1947, § 76-461.2; reen. Acts 1987, No. 863, § 1; 2011, No. 780, § 11.

27-72-321. Advance transfers to county special purpose road accounts.

(a)(1) Advance transfers may be made from time to time during the fiscal year to each of the several county special purpose road accounts maintained by the Treasurer of State.

(2) Special purposes road accounts, as used in this section, shall include any and all county road construction provisions enacted by the General Assembly requiring a specified level of local, county, and cost matching funds, and shall include state aid road funds, federal-aid secondary road funds, and all other provisions of county special purpose road construction assistance which may be enacted by the General Assembly.

(3) Advance transfers may be made from time to time in such amounts as may be respectively requested by each of the several county courts.

(4) Advance transfer requests shall be duly recorded as county court orders in each of the respective counties and shall be filed in a manner and form prescribed by the Chief Fiscal Officer of the State.

(5) Requests shall be accompanied by a certified copy of all initiated contractual documentation or grant-in-aid award documentation required by the provisions of the applicable special purpose road construction assistance enacted by the General Assembly for which the advance transfer is requested.

(6) The contractual documentation or grant-in-aid award documentation shall specify the total dollar amount of the contract or award, the effective date of the contractual document, and the estimated date of termination or completion of all work specified in the contract or award.

(7) However, the aggregate amount of all advance transfers to each of the respective special purpose road construction accounts during any fiscal year shall not exceed fifty percent (50%) of the estimated total amount of county highway aid funds to be credited to each respective county for the current fiscal year, based on the then-current annual official estimate of county highway revenue distribution.

(b)(1) The full amount of all advance transfers authorized under subsection (a) of this section shall be repaid to the County Road Construction and Maintenance Revolving Fund in equal monthly installments from highway revenue moneys designated as county aid funds from the State Apportionment Fund for each of the respective counties receiving advance transfers.

(2) The repayment period may transcend one (1) or more fiscal years or one (1) or more calendar years. However, the full amount of all advance transfers authorized under subsection (a) of this section shall be repaid during the term of office of each of the respective county judges requesting such advance transfers as the county court of each of the several counties; all such transfers shall be repaid during the then-current appropriation biennium of the General Assembly.

(3) There shall be no exception to this mandate.

(c) The interfund transfers authorized to be made under subsection (a) of this section shall be made by the Treasurer of State upon certification of the Chief Fiscal Officer of the State at the request of each of the several county courts.

(d)(1) Advance transfers, pursuant to § 27-72-320(a), may be made from time to time and in such amounts as may be respectively requested by each of the several county courts.

(2) Advance transfer requests shall be duly recorded as county court orders in each of the respective counties and shall be filed in a manner and form prescribed by the Chief Fiscal Officer of the State.

History. Acts 1975, No. 607, § 2; 1975 (Extended Sess., 1976), No. 1037, § 1; A.S.A. 1947, § 76-461.2; reen. Acts 1987, No. 863, § 1; 2011, No. 780, § 12.

Subchapter 4 — State Aid Streets

SECTION.
27-72-401. Definitions.
27-72-402. Establishment — Scope.
27-72-403. State Aid Division.
27-72-404. [Repealed.]
27-72-405. State aid engineer.
27-72-406. Eligibility for state aid — Notice.
27-72-407. State Aid Street Fund.
27-72-408 — 27-72-410. [Repealed.]
27-72-411. Street maintenance by municipality — Failure to maintain.
27-72-412. Expenses paid prior to allocation.

SECTION.
27-72-413. Allocation of state aid — State Aid Street Committee established.
27-72-414. Contracts for work to be performed.
27-72-415. Conditions for use of state aid.
27-72-416. Use of state aid.
27-72-417. Rights-of-way — Exception.
27-72-418. Municipal highway revenue estimates.
27-72-419. Title.

Effective Dates. Acts 2011, No. 1032, § 3: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that city streets are in an extreme state of disrepair, particularly in rural municipalities; that municipalities are without an adequate program or adequate funding to allow for significant, long-term, corrective action to repair their streets; and that this act is necessary to initiate a program of remediation for municipal streets with the involvement and consent of the Arkansas State Highway and Transportation Department so that municipalities can increase the prospects of economic and social development across the state by improving their streets. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

27-72-401. Definitions.

As used in this subchapter:

(1) "Betterment" means any construction or reconstruction on a state aid-designated street that results in an improvement that exceeds or equals any previous improvement whether or not the previous improvement was financed in part or in whole through the provisions of this subchapter;

(2)(A) "Construction" means any proposal submitted by a municipality that meets the definition of betterment as opposed to maintenance.

(B) "Construction" includes reconstruction or improvement;

(3) "Maintenance" means any act of work that maintains the improvement in serviceable condition;

(4) "Municipality" means a city of the first class, a city of the second class, or an incorporated town;

(5)(A) "State aid" means funds to be expended on state aid streets and includes any sum or sums provided by the General Assembly to supplement funds furnished by the several municipalities for the purpose of constructing, improving, widening, straightening, surfacing, or reconstructing streets or bridges on the state aid system.

(B) "State aid" shall be available to the several municipalities in a proportion to be fixed and determined by law; and

(6)(A) "State aid streets" means the classification of municipal streets composing the major and minor arterial and collector routes feeding into local trade areas or into the state highway system that are not designated as state highways.

(B) "State aid streets" includes those routes that:

(i) Are particularly essential to the conservation and development of economic and social value;

(ii) Encourage desirable land utilization; and

(iii) Have in addition one (1) or more of the following characteristics:

(a) Extend to communities within or beyond the municipality;

(b) Connect with roads of major importance to municipalities or to counties;

(c) Connect with state highways to form a complete network of main feeder roads;

(d) Carry heavy volumes of traffic serving major business interests of the municipality; or

(e) Collect traffic at reasonable intervals from several local streets.

(C) "State aid streets" includes bridges and ferries.

History. Acts 1973, No. 445, Title II, § 1, as added by Acts 1975, No. 982, § 1; A.S.A. 1947, § 76-463; Acts 2011, No. 1032, § 2; 2015, No. 303, § 1.

27-72-402. Establishment — Scope.

(a) A system of state aid streets in each municipality is established to:

(1) Consist of the major and minor arterial and collector routes not on the state highway system feeding into local trade areas or into the state highway system; and

(2) Provide a program for the construction and improvement of state aid streets.

(b)(1) A state aid system of streets is established for designation by cooperative action of the state and municipalities, as classified and defined in this subchapter.

(2) This system shall be designated by the several mayors or chief executive officers of the respective municipalities with the consent and approval of the state aid engineer.

(c) This subchapter shall not be construed to deprive or diminish the powers and duties of the mayor or chief executive officer of any municipality in the exercise of his or her constitutional control over municipal streets.

History. Acts 1973, No. 445, Title II, § 1, as added by Acts 1975, No. 982, § 1; A.S.A. 1947, § 76-463; Acts 2011, No. 1032, § 2.

27-72-403. State Aid Division.

There is created in the Arkansas Department of Transportation a division to be known as the "State Aid Division".

History. Acts 1973, No. 445, Title II, § 7, as added by Acts 1975, No. 982, § 1; A.S.A. 1947, § 76-469; Acts 2011, No. 1032, § 2; 2015, No. 303, § 2; 2017, No. 707, § 419.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department".

27-72-404. [Repealed.]

Publisher's Notes. This section, concerning receipt and expenditure of money, was repealed by Acts 2011, No. 1032, § 2. The section was derived from Acts 1973, No. 445, Title II, § 2, as added by Acts 1975, No. 982, § 1; 1977, No. 809, § 1; 1977 (Ex. Sess.), No. 24, § 2; 1979, No. 199, § 2; A.S.A. 1947, § 76-464.

27-72-405. State aid engineer.

(a) The State Aid Division of the Arkansas Department of Transportation shall be headed by a state aid engineer.

(b) The state aid engineer shall be a registered engineer with at least three (3) years' experience as a highway engineer and a thorough knowledge of municipal street problems.

(c) The state aid engineer under the direction of the Arkansas Department of Transportation shall:

(1) Advise the mayors and chief executive officers of the several municipalities on all matters of policy, use of funds, minimum standards for state aid streets, safeguards in accounting methods, and other related matters and cooperate with the mayors and chief executive officers on all matters connected with the layout and construction of state aid streets;

(2) Promulgate uniform and reasonable rules as he or she may deem necessary to:

(A) Effectuate a proper designation of state aid streets to be constructed in each municipality; and

(B) Develop the methods for determining priority of construction, the making of surveys, and the preparation of plans and specifications for the construction of state aid streets;

(3) Provide a uniform system of accounting in the expenditure of moneys from the State Aid Street Fund;

(4)(A) Prepare and promulgate practical uniform design standards and specifications for the construction of state aid streets.

(B) The minimum design standards and specifications may be modified or amended from time to time as the state aid engineer deems necessary; provided, however, that in any municipality with design standards as part of its adopted master street plan, any project proposed as part of the state aid streets program according to those adopted municipal design standards shall be deemed to have met the design standards for state aid streets;

(5) Advise and cooperate with the mayors and chief executive officers:

(A) In the selection and designation of the municipal streets that are to be made a part of the state aid street system, as provided for in this subchapter; and

(B) To approve or disapprove the selection of streets to be made a part of the state aid street system by the respective mayors and chief executive officers;

(6) Prepare and submit to the State Highway Commission all proposed contracts to be let for the construction or reconstruction of state

aid streets, but before submitting the contracts to the commission, he or she shall submit them to the mayor or chief executive officer of the municipality in which the work is to be performed so that the mayor or chief executive officer may determine that they include in all respects the work the municipality desires to be done in the municipality to be paid from state aid funds; and

(7)(A) To personally, or through his or her designated assistants, supervise and inspect all state aid street projects as the work progresses.

(B)(i) Upon final completion of any project, the state aid engineer shall cause a final inspection to be made of the project for the purpose of determining whether the project has been completed satisfactorily in accordance with the plans and specifications.

(ii) If satisfactorily completed, the state aid engineer shall approve payment of the final estimate on the project.

(C) Progress or final estimate either on a contract or a force account project shall not be paid unless approved in such manner by the state aid engineer.

(d)(1) The state aid engineer shall be subject to the direction of the department.

(2) However, both the state aid engineer and the department shall be bound by the provisions of this section.

History. Acts 1973, No. 445, Title II, § 3, as added by Acts 1975, No. 982, § 1; 1977, No. 809, § 4; A.S.A. 1947, § 76-465; Acts 2011, No. 1032, § 2; 2017, No. 457, §§ 4-6; 2017, No. 707, § 420.

Amendments. The 2017 amendment by No. 457 deleted "to be appointed by and serve at the pleasure of the State Highway Commission" at the end of (a); and substituted "department" for "commission" in the introductory language of (c) and twice in (d).

The 2017 amendment by No. 707 substituted "Department of Transportation" for "State Highway and Transportation Department" in (a).

27-72-406. Eligibility for state aid — Notice.

(a) Before a municipality is eligible to receive benefits under this subchapter, the municipality through its mayor or chief executive officer shall agree to comply with the terms, provisions, and limitations of this subchapter.

(b)(1) When a municipality meets the requirements of this subchapter and is eligible for state aid, the state aid engineer, as soon as practicable, shall notify the eligible municipality in writing.

(2) The notice shall state that any state funds allocated to the municipality for state aid may be used for construction on the state aid system in the manner provided in this subchapter.

History. Acts 1973, No. 445, Title II, § 4, as added by Acts 1975, No. 982, § 1; 1977, No. 809, § 2; 1977 (1st Ex. Sess.), No. 24, § 3; 1979, No. 199, § 3; A.S.A. 1947, § 76-466; Acts 2011, No. 1032, § 2.

27-72-407. State Aid Street Fund.

(a) There is created in the State Treasury a fund to be known as the "State Aid Street Fund", there to be used for construction, reconstruction, and improvements of the state aid street system.

(b)(1) All revenues deposited in the fund shall be apportioned to the municipalities as prescribed in § 27-72-413 for the distribution on the state aid street system among the various municipalities.

(2) The apportioned funds shall remain for a period of two (2) years from the date they are apportioned.

(3) Any unused funds shall be returned to the fund for redistribution in accordance with § 27-72-413.

(4)(A) For a municipality to receive these funds, the municipality must be matched in the ratio of ninety percent (90%) of moneys from the fund to not less than ten percent (10%) municipal matching funds for all municipalities with a population in excess of twenty-five thousand (25,000) residents.

(B) For all other municipalities, the state aid street project shall be funded at one hundred percent (100%), and all municipalities receiving moneys from the fund shall comply with the provisions of this subchapter.

History. Acts 1973, No. 445, Title II, § 5, as added by Acts 1975, No. 982, § 1; 1977, No. 241, § 2; 1977 (1st Ex. Sess.), No. 23, § 3; A.S.A. 1947, § 76-467; Acts 2011, No. 1032, § 2; 2015, No. 303, § 3.

27-72-408 — 27-72-410. [Repealed.]

Publisher's Notes. These sections, concerning apportionment and transfer of funds, prerequisite for allocations from account, and expenditure requirements, were repealed by Acts 2011, No. 1032, § 2. The sections were derived from the following sources:

27-72-408. Acts 1973, No. 445, Title II, § 6, as added by Acts 1975, No. 982, § 1; 1977, No. 809, § 3; 1977 (Ex. Sess.), No. 24, § 4; 1979, No. 199, § 4; 1981, No. 363, § 1; 1981, No. 522, § 1; A.S.A. 1947, § 76-468.

27-72-409. Acts 1973, No. 445, Title II, § 6, as added by Acts 1975, No. 982, § 1; 1977, No. 809, § 3; 1977 (Ex. Sess.), No. 24, § 4; 1979, No. 199, § 4; 1981, No. 363, § 1; 1981, No. 522, § 1; A.S.A. 1947, § 76-468.

27-72-410. Acts 1973, No. 445, Title II, § 8, as added by Acts 1975, No. 982, § 1; A.S.A. 1947, § 76-470.

27-72-411. Street maintenance by municipality — Failure to maintain.

(a) It is the duty of each municipality to properly maintain all state aid streets in that municipality after construction of any such streets with state aid moneys.

(b)(1) If, in the opinion of the state aid engineer, essential maintenance is not properly and regularly carried on, notice of the deficiency shall be given in writing to the mayor or chief executive officer.

(2) If maintenance is not initiated within sixty (60) days from date of notice, the state aid engineer may proceed to have the necessary maintenance and repair work on the street performed and charge the

work to any funds in the State Aid Street Fund in the State Treasury allocated to that municipality.

(3)(A) If failure to maintain continues, the municipality is no longer eligible for state aid until proper maintenance is resumed by that municipality.

(B) Notice of withdrawal of state aid shall be duly given the Auditor of State and Treasurer of State.

(C) However, such ineligibility shall not affect payment from the fund of progress and final estimates on contracts awarded prior to notice of ineligibility.

(c) When a municipality is ineligible for state aid under the provisions of this subchapter for a continuous period of five (5) years, the municipality shall forfeit and no longer be entitled to any part of the funds in the fund later allocated to it.

History. Acts 1973, No. 445, Title II, § 9, as added by Acts 1975, No. 982, § 1; A.S.A. 1947, § 76-471; Acts 2011, No. 1032, § 2.

27-72-412. Expenses paid prior to allocation.

The pro rata salaries of the state aid engineer, his or her assistants, and all other employees of the State Aid Division of the Arkansas Department of Transportation, as well as all other expenses incurred by the Arkansas Department of Transportation, shall be paid from the State Aid Street Fund in the State Treasury prior to allocation to the several municipalities.

History. Acts 2011, No. 1032, § 2; 2017, No. 707, § 421.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" twice.

27-72-413. Allocation of state aid — State Aid Street Committee established.

(a) State aid streets in the several municipalities shall receive state aid in the manner and under the terms and conditions set out in this section.

(b) The state aid street system shall be allocated to the several municipalities of the state by the State Aid Street Committee.

(c)(1) The committee shall be established to select the state aid street projects for submittal to the state aid engineer for funding and construction pursuant to the provisions of this subchapter.

(2)(A) The committee shall consist of nine (9) mayors to be appointed as follows:

(i) Three (3) mayors appointed by the Governor;

(ii) Three (3) mayors appointed by the Speaker of the House of Representatives; and

(iii) Three (3) mayors appointed by the President Pro Tempore of the Senate.

(B) The Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate shall each appoint at least one (1) mayor from a municipality with a population in excess of twenty-five thousand (25,000).

(3)(A) Each appointed mayor shall serve a term of four (4) years.

(B) A mayor shall be eligible to serve two (2) full terms of four (4) years on the committee.

(C) Committee members shall serve staggered terms.

(D) Should a mayor selected for the committee leave office before the end of his or her term, the party who made the original nomination shall appoint a successor mayor to serve the remainder of the term.

(4) The committee shall select a chair and a vice chair by majority vote to serve a term of one (1) year.

(5) A quorum is necessary to transact the business of the committee.

(6) The committee shall meet at least two (2) times each calendar year.

(d) The committee may establish a formula or criteria to facilitate the identification and selection of state aid street projects, subject to the approval of the state aid engineer and consistent with the provisions of this subchapter.

(e) All state aid street projects proposed by a municipality shall meet the requirements of §§ 27-72-406, 27-72-415, and 27-72-417 before the committee may consider the projects for submission to the state aid engineer.

History. Acts 2011, No. 1032, § 2; 2015, No. 303, § 4.

A.C.R.C. Notes. Acts 2015, No. 303, § 5, provided: "Members of the State Aid Street Committee shall serve staggered terms of four (4) years to be determined by lot at a September 2015 meeting and in a manner to result in an equal number of terms expiring each year beginning on December 31, 2015, until fully staggered."

27-72-414. Contracts for work to be performed.

(a) All proposals covering work to be performed on state aid streets in a municipality in this state shall be:

(1) Under contract let and approved by the State Highway Commission upon a request from the mayor or chief executive officer of the municipality; and

(2) In accordance with the procedures prescribed in § 27-67-206 and other laws of this state pertaining to contracts for the construction of state highways, which shall be equally applicable to all contracts let by the commission for the construction of state aid streets under this subchapter.

(b)(1) The mayor or chief executive officer of a municipality is authorized to submit bids for work to be performed on state aid streets in his or her municipality under the provisions of this subchapter.

(2) This section shall not be construed to limit or restrict the right of a mayor or chief executive officer to submit bids for work to be

performed by municipal forces in his or her municipality so long as the bids are:

(A) In accordance with procedures of § 27-67-206; and

(B) The aggregate cost does not exceed one hundred sixty-five thousand dollars ($165,000).

History. Acts 2011, No. 1032, § 2.

27-72-415. Conditions for use of state aid.

A municipality is entitled to receive state aid and to expend state aid moneys in conjunction with moneys furnished by the municipality on state aid streets in the municipality on projects approved for construction in the municipality provided:

(1) The state aid system in the municipality has been designated and approved as provided in this subchapter;

(2)(A) The municipality has employed or retained an engineer who is a registered professional engineer to act for and on behalf of the municipality as a whole.

(B) However:

(i) If any mayor or chief executive officer is a registered professional engineer, the mayor or chief executive officer may perform the duties provided under this section for the municipal engineer; and

(ii) A municipality may contract with the Arkansas Department of Transportation for engineering services in lieu of employing or retaining a municipal engineer.

(C) The cost of employing or retaining a municipal engineer or contracting with the department for engineering services shall be paid from the municipal street funds of the municipality and shall not be payable from the State Aid Street Fund.

(D) Engineering costs on federal-aid projects may be included as a cost item of the projects; and

(3) The municipality has complied with all rules promulgated by the state aid engineer.

History. Acts 2011, No. 1032, § 2; 2017, No. 707, § 422.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (2)(B)(ii).

27-72-416. Use of state aid.

(a) Funds deposited in the State Aid Street Fund shall be used exclusively for the construction, reconstruction, and improvements of streets or bridges on the state aid street system, except as otherwise provided in this subchapter.

(b) The funds shall not be spent under this subchapter on any project that shall not culminate directly in a paved hard-surfaced street and the associated nonmotorized facilities that may be required by municipal design standards.

(c) The funds shall not be used for maintenance of state aid streets.

(d)(1) All expenditures from the fund under this subchapter shall be made after publication of:

(A) Notice to bidders of the date for final reception of bids; and

(B) The address at which specifications can be acquired.

(2) After a public opening of the bids, all contracts shall be awarded to the lowest responsible bidder.

History. Acts 2011, No. 1032, § 2.

27-72-417. Rights-of-way — Exception.

(a)(1) All rights-of-way required on state aid street projects shall be acquired by the municipality.

(2) Any cost of rights-of-way or utility relocation shall not be considered a part of the cost of a project contemplated by this subchapter.

(b) The cost of reconstructing fencing and the construction of property access passages shall not be considered as rights-of-way costs but shall be considered as a component of project cost.

History. Acts 2011, No. 1032, § 2.

27-72-418. Municipal highway revenue estimates.

(a)(1) For each fiscal year, the Chief Fiscal Officer of the State shall prepare and file quarterly statements setting forth an estimate of the total amount of highway revenues and other state revenues made available by this subchapter and all other laws providing state resources for and to municipal governments for street construction, improvements, and betterments made within the spirit of this subchapter for the express use of the several municipalities of the state.

(2) The Chief Fiscal Officer of the State shall prepare and file the statement on or before July 10, October 10, January 10, and April 10 of each fiscal year.

(b)(1) Each statement shall be designated and known as the "Official Estimate of Municipal Highway Revenues Distribution" for the then-current fiscal year.

(2) Copies shall be filed with the Chief Fiscal Officer of the State, the Auditor of State, the Treasurer of State, and the Arkansas Municipal League.

(c)(1) In preparing each official estimate of municipal highway revenues distribution, the Chief Fiscal Officer of the State shall begin with a basic amount arrived at in the manner prescribed under this subsection.

(2) The Chief Fiscal Officer of the State shall add or subtract his or her estimate of the net increase or net decrease in municipal street funds as may be affected by various factors, as determined by the Chief Fiscal Officer of the State, including without limitation:

(A) Changes in the laws pertaining to tax rates and exemptions;

(B) Administration of tax laws;

(C) Indexing; and

(D) Distribution of revenues.

(3) The basic amount of municipal street funds shall be ascertained as follows:

(A) The July estimate shall be the amount of the next-preceding fiscal year's municipal street funds, increased or decreased by that certain percentage determined by the average of percentage changes in the amount of the total municipal street funds by legislated source category of each of the three (3) preceding fiscal years in relation to its preceding fiscal year; and

(B) The October, January, and April estimates shall be the total amount of municipal street funds by legislated source category collected in the preceding months of the then-current fiscal year plus the total amount of municipal street funds by legislated source category collected in all of the other months of the preceding fiscal year, increased or decreased by that certain percentage determined by the average of percentage changes in the collections during all other months of each of the three (3) preceding fiscal years in relation to the same other months of its preceding fiscal years.

History. Acts 2011, No. 1032, § 2.

27-72-419. Title.

This subchapter shall be known and may be cited as the "State Aid Streets Law".

History. Acts 2011, No. 1032, § 2.

CHAPTER 74

HIGHWAY BEAUTIFICATION

SUBCHAPTER.

2. Outdoor Advertising — Signs, Etc. — In General.
4. Control of Junkyards.
5. Scenic Easements.

Subchapter 1 — General Provisions

27-74-101. Title.

CASE NOTES

Zoning.

Denial of the company's application for a permit to erect an electronic billboard was appropriate pursuant to the Arkansas Highway Beautification Act, §§ 27-74-101 to 27-74-502, because the property was not zoned commercial or industrial, § 27-74-204(a). Ark. State Highway & Transp. Dep't v. Lamar Advantage Holding Co., 2011 Ark. 195, 381 S.W.3d 787 (2011).

Subchapter 2 — Outdoor Advertising — Signs, Etc. — In General

SECTION.
27-74-201. Policy.
27-74-203. Regulation.
27-74-207. Removal — Notice to owner.
27-74-211. Rules — Adoption and promulgation.
27-74-212. Time limit for action on application for permit.
27-74-213. Rest areas.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

27-74-201. Policy.

(a) The General Assembly finds and declares that the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to certain sections of the National System of Interstate and Defense Highways, and federal-aid primary and other state highways designated by the State Highway Commission in the Arkansas state highway system shall be controlled in accordance with the terms of this chapter and rules promulgated pursuant thereto, in order to protect the public interest; to promote the public health, safety, and welfare; to preserve natural beauty; and to promote reasonable, orderly, and effective display of outdoor advertising in the State of Arkansas.

(b) The State of Arkansas finds and declares that the removal of certain directional signs, displays, and devices in certain specified areas lawfully erected under state law in force at the time of their erection which do not conform to the requirements of 23 U.S.C. § 131(c), which provide directional information about goods and services in the interest of the traveling public, and which were in existence on May 6, 1976, would work a substantial economic hardship in the defined areas.

History. Acts 1967, No. 640, Art. 1, § 1; 1977, No. 386, § 1; A.S.A. 1947, § 76-2502; Acts 2019, No. 315, § 3168.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (a).

27-74-203. Regulation.

(a) The erection and maintenance of outdoor advertising signs, displays, and devices in areas six hundred sixty feet (660') in width from

the nearest edge of any right-of-way of any interstate, primary, or other state highway designated by the State Highway Commission shall be regulated in order to protect the public investment in these highways, to promote the public safety and welfare in the use of these highways, to encourage the recreational value of public travel, and to preserve the natural beauty along these highways.

(b) Therefore, no outdoor sign, display, or device shall be erected in these areas except as hereinafter provided and in accordance with rules promulgated by the commission.

(c) Any person whose business or property has been injured by a final adverse decision from the commission shall be entitled to a judicial hearing de novo in the circuit court of any county in which the person resides or does business or in the Pulaski County Circuit Court if the interests affected by the decision of the commission are constitutionally or statutorily preserved, or preserved by private agreement, so that their enforcement is a matter of right.

History. Acts 1967, No. 640, Art. 1, § 3; A.S.A. 1947, § 76-2504; Acts 2001, No. 800, § 1; 2019, No. 315, § 3169.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (b).

CASE NOTES

Analysis

De Novo Review Not Authorized.
Denial of Permit Upheld.

De Novo Review Not Authorized.

Outdoor advertising company's failure to timely renew its permits for nonconforming billboards under § 27-74-204(b) properly resulted in the denial of the permits. The company was not entitled to de novo review of the denial of the permits under this section because the right to erect and maintain a billboard was not statutorily protected as required by that section. Lamar Co., LLC v. Ark. State Highway & Transp. Dep't, 2011 Ark. App. 695, 386 S.W.3d 670 (2011).

Denial of Permit Upheld.

Substantial evidence supported the State Highway Commission's decision upholding the Arkansas State Highway and Transportation Department's denial of an outdoor advertiser's application for a permit to convert an existing billboard to an electronic message device given the deference owed to the Department's interpretation of the regulations adopted under the Arkansas Highway Beautification Act, § 27-74-101 et seq., and there was evidence from which to determine that the activity at the proposed sign site was transitory or temporary in nature and that the activity was not visible from the interstate. Ark. State Highway & Transp. Dep't v. RAM Outdoor Advertising, 2015 Ark. App. 713, 479 S.W.3d 51 (2015).

27-74-204. Permitted advertising.

RESEARCH REFERENCES

ALR. Regulation of Digital Billboards. 5 A.L.R.7th Art. 8 (2015).

CASE NOTES

Analysis

Denial of Permit Upheld.
Permit Required.
Zoning.

Denial of Permit Upheld.

Substantial evidence supported the State Highway Commission's decision upholding the Arkansas State Highway and Transportation Department's denial of an outdoor advertiser's application for a permit to convert an existing billboard to an electronic message device given the deference owed to the Department's interpretation of the regulations adopted under the Arkansas Highway Beautification Act, § 27-74-101 et seq., and there was evidence from which to determine that the activity at the proposed sign site was transitory or temporary in nature and that the activity was not visible from the interstate. Ark. State Highway & Transp. Dep't v. RAM Outdoor Advertising, 2015 Ark. App. 713, 479 S.W.3d 51 (2015).

Permit Required.

Outdoor advertising company's failure to timely renew its permits for nonconforming billboards under subsection (b) of this section properly resulted in the denial of the permits. New permits could not be issued because the Arkansas State Highway and Transportation Department's agreement with the federal government would not allow it to grant new Class B permits for signs along a scenic byway, pursuant to 23 U.S.C.S. § 131(g) and subsection (c) of this section. Lamar Co., LLC v. Ark. State Highway & Transp. Dep't, 2011 Ark. App. 695, 386 S.W.3d 670 (2011).

Zoning.

Denial of the company's application for a permit to erect an electronic billboard was appropriate pursuant to the Arkansas Highway Beautification Act, §§ 27-74-101 to 27-74-502, because the property was not zoned commercial or industrial under subsection (a) of this section. Ark. State Highway & Transp. Dep't v. Lamar Advantage Holding Co., 2011 Ark. 195, 381 S.W.3d 787 (2011).

27-74-207. Removal — Notice to owner.

(a) The State Highway Commission shall give thirty (30) days' notice, by certified mail, to the owner of the land on which an advertising device is located to remove it if it is a prohibited device or cause it to conform to rules if it is an authorized device.

(b) If the owner of the property fails to act within thirty (30) days as required in the notice, the commission shall remove the advertising device at the expense of the owner of the land.

History. Acts 1967, No. 640, Art. 1, § 11; A.S.A. 1947, § 76-2512; Acts 2019, No. 315, § 3170.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (a).

27-74-211. Rules — Adoption and promulgation.

(a) After survey to determine existing outdoor advertising structures in this state and after public hearing, the State Highway Commission shall determine customary use in the display of outdoor advertising in this state with regard to size, lighting, and spacing in areas zoned commercial or industrial and in unzoned areas used for commercial or industrial purposes.

(b) The definition of an unzoned commercial or industrial area shall be determined by agreement between the commission and the United

States Secretary of Transportation but shall be no more restrictive than that required by Title 23 of the United States Code. The commission shall then adopt and promulgate rules governing the issuance of permits for the erection and maintenance of outdoor advertising coming within the purview of this chapter, consistent with the safety and welfare of the traveling public, and as may be necessary to carry out the policy of the state declared in this chapter consistent with customary usage, the purposes of this chapter, and in agreement with the United States Secretary of Transportation.

(c) In the event that federal statutes, rules, or regulations conflict with the provisions of §§ 27-74-210 — 27-74-212 or rules promulgated thereunder, the commission is authorized to promulgate rules necessary to comply with federal law after first obtaining the advice of the Legislative Council thereon while pursuing, insofar as possible, the legitimate objectives of those sections.

History. Acts 1967, No. 640, Art. 1, § 4; 1979, No. 735, § 4; A.S.A. 1947, §§ 76-2505, 76-2505.6; Acts 2019, No. 315, § 3171.

Amendments. The 2019 amendment substituted "rules" for "regulations" in the second sentence of (b); and, in (c), substituted the second occurrence of "rules" for "regulations" and deleted "and regulations" following "promulgate rules".

CASE NOTES

Denial of Permit Upheld.

Substantial evidence supported the State Highway Commission's decision upholding the Arkansas State Highway and Transportation Department's denial of an outdoor advertiser's application for a permit to convert an existing billboard to an electronic message device given the deference owed to the Department's interpretation of the regulations adopted under the Arkansas Highway Beautification Act, § 27-74-101 et seq., and there was evidence from which to determine that the activity at the proposed sign site was transitory or temporary in nature and that the activity was not visible from the interstate. Ark. State Highway & Transp. Dep't v. RAM Outdoor Advertising, 2015 Ark. App. 713, 479 S.W.3d 51 (2015).

27-74-212. Time limit for action on application for permit.

(a) It is the intent and purpose of this section to require the State Highway Commission to act on each application for a permit for the erection and maintenance of outdoor advertising coming within the purview of this chapter within sixty (60) days after such application is filed with the commission to assure the prompt disposition of such applications and to avoid the unnecessary hardship and expense to applicants which could result from unreasonable delay in taking action on the applications.

(b) When an application is filed with the commission or the Arkansas Department of Transportation under § 27-74-211 or rules adopted pursuant thereto for a permit to erect or maintain outdoor advertising, the commission or the department shall either grant or deny such permit within sixty (60) days from the date on which the application was filed with the commission or the department.

History. Acts 1979, No. 735, §§ 1, 3; A.S.A. 1947, §§ 76-2505.3, 76-2505.5; Acts 2017, No. 707, § 423; 2019, No. 315, § 3172.

Amendments. The 2017 amendment substituted "Department of Transportation under" for "State Highway and Transportation Department pursuant to" in (b).

The 2019 amendment substituted "rules" for "regulations" in (b).

27-74-213. Rest areas.

In order to provide information in the specific interest of the traveling public, the State Highway Commission is authorized to maintain maps and to permit informational directories and advertising pamphlets to be made available at safety rest areas along the interstate, primary, and other state highways designated by the commission and to establish information centers in cooperation with the Department of Parks, Heritage, and Tourism at safety rest areas for the purpose of informing the public of places of interest within the state and providing other information as may be considered desirable.

History. Acts 1967, No. 640, Art. 1, § 10; A.S.A. 1947, § 76-2511; Acts 2019, No. 910, § 5731.

Amendments. The 2019 amendment substituted "Department of Parks, Heritage, and Tourism" for "Department of Parks and Tourism".

Subchapter 4 — Control of Junkyards

SECTION.
27-74-405. Screening requirement.

27-74-405. Screening requirement.

(a) Except as otherwise herein provided, no junkyards shall be established, operated, or maintained after June 29, 1967, any portion of which is within one thousand feet (1,000') of the nearest edge of the right-of-way of any interstate, primary, or other state highway designated by the State Highway Commission in the State of Arkansas unless the junkyards shall be screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main-traveled way of the highway, or shall be removed from sight.

(b) The commission is authorized and directed to promulgate rules governing the location, planting, construction, and maintenance, including materials used therein, of the screening and fencing required under this chapter.

History. Acts 1967, No. 640, Art. 2, § 3; A.S.A. 1947, § 76-2515; Acts 2019, No. 315, § 3173.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (b).

Subchapter 5 — Scenic Easements

SECTION.
27-74-501. Policy.

27-74-501. Policy.

(a) The General Assembly finds and declares that the restoration, preservation, and enhancement of scenic beauty within and adjacent to many of the state highways are conducive to safe, efficient, and comfortable use of these facilities and necessary to protect the public investment.

(b) Therefore, it is the duty of the State Highway Commission to adopt, promulgate, and enforce reasonable rules for landscape and roadside development of the scenic values of selected areas adjacent to these highways through the acquisition and development of scenic easements on and improvement of strips of land necessary for the restoration, preservation, and enhancement of such scenic beauty, including scenic overlooks and rest and recreation areas.

History. Acts 1967, No. 640, Art. 3, § 1; A.S.A. 1947, § 76-2520; Acts 2019, No. 315, § 3174.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (b).

CHAPTER 76

REGIONAL MOBILITY AUTHORITY ACT

SUBCHAPTER.

1. General Provisions.
2. Creation.
3. Governance.
4. Powers and Duties.
6. Financing and Bonds.
7. Tolling.

Subchapter 1 — General Provisions

SECTION.

27-76-102. Legislative findings.
27-76-103. Definitions.
27-76-106. Immunity.

27-76-102. Legislative findings.

The General Assembly finds that:

(1) Many transportation projects cannot be completed because the transportation construction and maintenance needs of the State of Arkansas far exceed the budget for highway construction and maintenance;

(2) Counties and municipalities have limited budgets for transportation construction and maintenance. As a result, they are often unable to be financial partners with the Arkansas Department of Transportation;

(3) Through the creation of regional mobility authorities throughout the state, counties and municipalities are empowered to become better partners for highway construction and maintenance with the department and the State Highway Commission; and

(4) The funding of regional mobility authorities is intended to supplement state and federal transportation funds. Such funding is not intended to substitute for state and federal transportation aid to counties and municipalities.

History. Acts 2007, No. 389, § 1; 2017, No. 707, § 424.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (2).

27-76-103. Definitions.

As used in this chapter:

(1)(A) "Bond" means a revenue bond or note issued under this chapter by a regional mobility authority created under the Regional Mobility Authority Act, § 27-76-101 et seq.

(B) "Bond" includes any other financial obligation of a regional mobility authority authorized by this chapter, the laws of this state, or the Arkansas Constitution;

(2)(A) "Compensation" means any payment for the value of the use of time or the expenditure of moneys, including without limitation:

(i) A salary; or

(ii) Per diem allowance.

(B) "Compensation" does not include reimbursement as provided under § 27-76-302(d);

(3) "Debt service" means the amounts necessary for paying principal, interest, trustee's and paying agent's fees, and rebate costs and the amounts necessary to establish and maintain debt service reserves as provided in the authorizing resolution or trust indenture identified under this chapter;

(4) "Governmental entity" means a lawfully created branch, department, or agency of the federal, state, or local government;

(5) "Owner" means any individual, partnership, association, corporation, or organization having any title or interest in any property, rights, easements, and interest authorized to be acquired by and under the regional mobility authority of this chapter;

(6) "Person" means any individual, partnership, corporation, or other entity recognized by law as having power to contract;

(7) "Project development" means all phases of implementation conducted in relation to a transportation project, including without limitation:

(A) Planning;

(B) Environmental clearances;

(C) Surveys;

(D) Design;

(E) Utility adjustments;

(F) Right-of-way acquisition;

(G) Construction; and

(H) Construction inspection;

(8) "Public utility facility" means a facility that is either publicly or privately owned and that provides direct or indirect utility service to the public, including without limitation:

(A) Sewage and water pumping stations;

(B) Sewage and water treatment facilities;

(C) Telephone electronic structures; and

(D) Major electrical power lines, pipelines, or substations whose major purpose is transport through a community;

(9) "Registered owner" means an owner of a motor vehicle as shown on the vehicle registration records maintained by the Office of Motor Vehicle or the analogous department or agency of another state or country;

(10)(A) "Toll facility project" means:

(i) Any new highway constructed under the provisions of this chapter by a regional mobility authority as a toll road; and

(ii) All property, rights, easements, rights-of-way, and interest that may be acquired by the regional mobility authority for or in connection with the construction or operation of a toll road.

(B) "Toll facility project" includes without limitation the following as the regional mobility authority deems necessary or desirable for the operation of a toll road:

(i) Lands;

(ii) Rights-of-way;

(iii) Bridges;

(iv) Tunnels;

(v) Overpasses;

(vi) Underpasses;

(vii) Interchanges;

(viii) Entrance plazas;

(ix) Approaches;

(x) Toll houses;

(xi) Administration buildings;

(xii) Storage buildings;

(xiii) Other buildings; and

(xiv) Facilities;

(11)(A) "Toll facility project costs" means any direct and indirect costs incurred in connection with the acquisition of rights-of-way for and constructing and equipping toll facility projects, including without limitation:

(i) The cost of the acquisition of all lands, property, rights, rights-of-way, easements, and interests acquired by a governmental entity;

(ii) The cost of demolishing or removing buildings or structures on the land so acquired;

(iii) The cost of acquiring any lands to which those buildings or structures may be moved;

(iv) The cost of all machinery and equipment;

(v) Financing charges, including interest accrued:

(a) Prior to construction;

(b) During construction; or

(c) For a period after construction;

(vi) The establishment of necessary funds and reserves;

(vii) The cost of traffic estimates, engineering fees, legal fees, plans, specifications, surveys, and estimates of cost and revenues;

(viii) Administration expense, expenditures, or any other expense that is necessary or incidental to determining the feasibility or practicability of a toll facility project; and

(ix) Cost, expenditure, or any other expense that is necessary or incidental to the construction of a toll facility project, the finance of the construction, and the placement of the toll facility project into operation.

(B) Toll facility project costs also shall include any obligation, expense, or expenditure incurred or made by the regional mobility authority for matters pertaining to a toll facility project, including without limitation:

(i) Feasibility studies;

(ii) Traffic surveys;

(iii) Borings;

(iv) Preparation of plans and specifications;

(v) Engineering services; and

(vi) Cost, expenditure, or any other expense that is regarded as part of the costs of a toll facility project and that may be reimbursed to the State Highway Commission or other agency or department of the state out of the proceeds of revenue bonds or out of any other available funds of the commission;

(12) "Toll facility project revenues" means, without limitation, any tolls, rentals, license and permit revenues, contractual receipts, gifts, grants, moneys, charges, and other funds, including federal aid highway funds, and property of whatever nature coming into the possession of or under the control of the board of directors of the regional mobility authority by virtue of this chapter, except the proceeds derived from the sale of revenue bonds issued under this chapter;

(13) "Transponder" means a device placed on or within a vehicle that is capable of transmitting or receiving information used to assess or collect tolls;

(14) "Transportation project" means:

(A) Any part of a transportation system;

(B) Construction on or of any part of a transportation system;

(C) Maintenance on or operation of any part of a transportation system; or

(D) Preservation of any part of a transportation system; and

(15) "Transportation system" means infrastructure that provides mobility for people or goods in a region, including without limitation:

(A) Roads;

(B) Streets;

(C) Highways;

(D) Bridges;

(E) Tunnels;
(F) Sidewalks;
(G) Bicycle paths;
(H) Trails;
(I) Toll facilities;
(J) Pedestrian ways;
(K) Intermodal facilities;
(L) Port authorities;
(M) Waterways;
(N) Railroads;
(O) Parking facilities;
(P) Public transit systems;
(Q) Traveler information systems;
(R) Intelligent transportation systems;
(S) Traffic management systems;
(T) Traffic signal systems;
(U) Safety improvements; or
(V) Any other means of surface or water transportation.

History. Acts 2007, No. 389, § 1; 2009, No. 483, § 10; 2011, No. 524, § 1.

27-76-106. Immunity.

(a) The powers and duties of a regional mobility authority conferred by this chapter are public and governmental functions exercised for a public purpose and for matters of public necessity.

(b) The exercise of the powers and the performance of the duties by a regional mobility authority under this chapter are immune from suit in tort unless immunity is expressly waived in writing.

(c) A regional mobility authority is not immune from suit in contract if the contract arises from the performance of duties authorized by law.

History. Acts 2007, No. 389, § 1; 2011, No. 524, § 3.

Subchapter 2 — Creation

SECTION.
27-76-203. Membership in regional mobility authority.

27-76-203. Membership in regional mobility authority.

(a) To become a member of a regional mobility authority, a governing body of a municipality or county within the jurisdictional boundaries of the regional mobility authority shall:

(1) Provide by ordinance for the participation of the municipality or county in the regional mobility authority; and

(2) Enter into an agreement with the other participating members if such members exist.

(b)(1) The agreement between members of a regional mobility authority shall establish the terms and conditions of the operation of the regional mobility authority with the limitations provided in this chapter and other applicable laws.

(2) If a regional mobility authority is composed of a single county, the terms and conditions of the operation of the regional mobility authority shall be established in the ordinance authorizing the creation of the regional mobility authority.

(c) To the extent that it is consistent with this chapter, the agreement shall comply with the provisions of § 25-20-104(c).

History. Acts 2007, No. 389, § 1; 2013, No. 497, § 1.

Subchapter 3 — Governance

SECTION.
27-76-303. Membership on board of directors.

27-76-303. Membership on board of directors.

(a) Unless the structure of the board of directors is otherwise specified in the agreement establishing the regional mobility authority, the board of directors of a regional mobility authority shall consist of no fewer than five (5) directors as provided under this section.

(b)(1) The board of directors shall include the county judge or designated representative of each county that is a member of the regional mobility authority and the mayor or designated representative of each city of the first class that is a member of the regional mobility authority.

(2) If the number of directors is fewer than five (5) after fulfilling the requirements of subdivision (b)(1) of this section, then mayors or designated representatives of the cities of the second class that are members of the regional mobility authority are appointed to the board of directors in descending order of population as determined by the last federal decennial census until five (5) directors have been appointed.

(3) If the number of directors is fewer than five (5) after fulfilling the requirements of subdivisions (b)(1) and (2) of this section, the county judge or designated representative of each county that is a member of the regional mobility authority and the mayor or designated representative of each city of the first class that is a member of the regional mobility authority shall:

(A) Each appoint an additional director to the board of directors; and

(B) If the number of directors is fewer than five (5) after fulfilling the requirement of subdivision (b)(3)(A) of this section, continue to appoint additional directors to the board of directors until:

(i) The number of directors is at least five (5); and

(ii) Each county judge or designated representative of each county that is a member of the regional mobility authority and each mayor or designated representative of each city of the first class that is a member of the regional mobility authority has appointed an equal number of directors to the board of directors.

(c) The designated representative of a county judge or mayor under subsection (b) of this section shall be a qualified elector of the jurisdiction that the designated representative is appointed to represent.

(d) If a city of the second class becomes a city of the first class and is a member of the regional mobility authority, the mayor of that city or designated representative shall become a director.

(e) Membership of cities of the second class on the board of directors shall be adjusted after each federal decennial census.

History. Acts 2007, No. 389, § 1; 2013, No. 497, § 2.

Subchapter 4 — Powers and Duties

SECTION.
27-76-401. Powers generally.
27-76-403. Authority to contract.
27-76-404. Actions affecting existing roads — Grade separation.
27-76-405. Expenditures for feasibility studies.
27-76-406. Reimbursement for feasibility studies.
27-76-410. Consistency of planning.

27-76-401. Powers generally.

The board of directors of a regional mobility authority created under this chapter may:

(1) Make and adopt all necessary bylaws for its organization and operation;

(2) Elect officers and employ personnel necessary for its operation;

(3) Build, operate, maintain, expand, fund, or own a transportation project or a transportation system;

(4) Apply for, receive, and spend grants for any purpose under this chapter;

(5) Enter into contracts as provided in § 27-76-403;

(6) Enter into any agreement with any road or street improvement district established under § 14-316-101 et seq., § 14-317-101 et seq., and § 14-322-101 et seq.;

(7) Enter into any agreement with the State Highway Commission and the Arkansas Department of Transportation;

(8) Acquire lands and hold title to the lands acquired in its own name;

(9) Acquire, own, use, and dispose of property in the exercise of its powers and the performance of its duties under this chapter;

(10) Acquire any property necessary to carry out the purposes of this chapter by exercising the power of eminent domain as provided under § 27-76-501 et seq.;

(11) Enter into agreements or contracts as provided under this chapter;

(12) Construct or change grade separations as provided under § 27-76-404;

(13) Fund feasibility studies as provided under §§ 27-76-405 and 27-76-406;

(14) Enter into agreements for joint transportation projects or transportation systems between regional mobility authorities as provided under § 27-76-407;

(15) Transfer a transportation project or transportation system as provided under § 27-76-408;

(16) Develop and utilize financing options as provided under § 27-76-601 et seq.;

(17) Issue revenue bonds and provide for the financing of revenue bonds as provided under § 27-76-601 et seq.;

(18) Impose and collect tolls for a toll facility project owned or operated by the regional mobility authority subject to voter approval as provided under § 27-76-701(d);

(19) Impose and collect charges or rates for the use of a transportation system or transportation project that is owned or operated by the regional mobility authority, other than a toll facility project, specifically to set:

(A) Passenger charges for public transit system users;

(B) Parking fees for users of parking decks or other parking facilities;

(C) Ferry fees for the use of ferries;

(D) Passenger and freight fees for the use of railroads;

(E) Freight and user fees for the use of intermodal and port facilities;

(F) Access fees and charges for the use of traveler information systems; or

(G) Other fees and charges that are usually and customarily charged of users of a transportation system or a transportation project;

(20) Index the cost for construction materials to the cost set by the market;

(21) Request and receive from time to time from counties or cities within the boundaries of the regional mobility authority funds to finance and support the regional mobility authority, including county or city turnback funds as set forth in §§ 27-70-206 and 27-70-207;

(22) Promote the use of a transportation project through advertising or marketing as it determines to be appropriate, including the promotion of a transportation project operated by a regional mobility authority on behalf of another entity;

(23) Receive property or funds by gift or donation for the finance and support of the regional mobility authority; and

(24) Do all things necessary or appropriate to carry out the powers expressly granted or duties expressly imposed under this chapter.

History. Acts 2007, No. 389, § 1; 2017, No. 707, § 425.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (7).

27-76-403. Authority to contract.

(a) A regional mobility authority created under this chapter may enter into agreements or contracts with a governmental entity or a private entity.

(b) The types of agreements or contracts that a regional mobility authority may enter into under this chapter include without limitation:

(1) Lease agreements;

(2) Rental agreements;

(3) Operating agreements;

(4) Service agreements;

(5) License agreements;

(6) Promotional agreements;

(7) Purchasing agreements; and

(8) Public-private partnership agreements for transportation projects concerning rail, waterway, or trail.

(c) The scope of agreements or contracts that a regional mobility authority may enter into under this chapter includes without limitation:

(1) Rent, lease, or make property available for the benefit of users of a transportation project or a transportation system other than a public utility facility;

(2) Plan, design, construct, operate, or maintain a transportation project on behalf of a governmental entity within the boundaries of the regional mobility authority; and

(3) Acquire with the consent of a governmental entity or private entity a transportation project or transportation system from that entity and assume any debts, obligations, and liabilities of the entity relating to a transportation project or transportation system transferred to the regional mobility authority, provided that a regional mobility authority shall not acquire a transportation project or transportation system from another public or private entity that is completed or for which a construction notice to proceed has been issued to convert the transportation project or transportation system to a toll facility project.

(d) A regional mobility authority shall not sell a toll facility project to a private entity or enter into a lease for a toll facility or a concession agreement related to a toll facility..

History. Acts 2007, No. 389, § 1; 2011, No. 524, § 2.

27-76-404. Actions affecting existing roads — Grade separation.

(a) A regional mobility authority may construct a grade separation at an intersection of a transportation project with a railroad or highway

and change the line of the railroad or grade of a highway to accommodate the design of the grade separation as provided under this section.

(b) A regional mobility authority shall obtain consent from the Arkansas Department of Transportation and the State Highway Commission before constructing a grade separation under this section that affects a segment of the state highway system.

(c) A regional mobility authority shall pay the cost of a grade separation and any damage incurred in changing a line of a railroad or the grade of a highway as part of the cost of the transportation project.

(d)(1) On request of the county, a regional mobility authority that has changed the location of a segment of a county road as part of its development of a transportation project shall reconstruct that segment of the road at a location that the regional mobility authority determines restores the utility of the road.

(2) On request of the city, a regional mobility authority that has changed the location of a segment of a city road as part of its development of a transportation project shall reconstruct that segment of the road at a location that the regional mobility authority determines restores the utility of the road.

(3) Determinations under this subsection as to the relocation of a road shall be at the discretion of the regional mobility authority.

(4) Any reconstruction under this subsection and the associated costs of reconstruction are deemed to be in furtherance of a transportation project.

History. Acts 2007, No. 389, § 1; 2017, No. 707, § 426.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (b).

27-76-405. Expenditures for feasibility studies.

(a) A regional mobility authority may pay the expenses of studying the cost and feasibility and any other expenses relating to the preparation and issuance of bonds for a proposed transportation project by:

(1) Using legally available revenue derived from an existing transportation project;

(2) Borrowing money, issuing bonds, or entering into a loan agreement payable out of legally available revenue anticipated to be derived from the operation of an existing transportation project;

(3) Pledging to the payment of the bonds or a loan agreement legally available revenue anticipated to be derived from the operation of a transportation project; or

(4) Pledging to the payment of the bonds or loan agreement legally available revenue to the regional mobility authority from another source.

(b) Money spent by a regional mobility authority under this section for a proposed transportation project may be reimbursed to the transportation project from which the money was spent from the proceeds of

bonds issued for the acquisition and construction of the proposed transportation project.

(c) The use of any money of a transportation project to study the feasibility of another transportation project or used to repay any money used for that purpose does not constitute an operating expense of the transportation project producing the revenue and may be paid only from the surplus money of the transportation project as determined by the regional mobility authority.

History. Acts 2007, No. 389, § 1; 2013, No. 497, § 3.

27-76-406. Reimbursement for feasibility studies.

(a) The following are allowable reimbursable expenses for studying the cost and feasibility of a transportation project as provided under this section:

(1) The preparation and issuance of bonds for the acquisition or construction of a proposed transportation project by a regional mobility authority; or

(2) The improvement, extension, or expansion of an existing transportation project of the regional mobility authority.

(b) Any of the following may pay all or part of the expenses under this section related to a transportation project and be reimbursed as provided under this section:

(1) One (1) or more municipalities, counties, or other governmental entities;

(2) A combination of municipalities, counties, or other governmental entities;

(3) A governmental entity or private entity with its place of business in this state; or

(4) An individual who resides in this state.

(c)(1) Funds expended under this section for a proposed transportation project are reimbursable without interest and with the consent of the regional mobility authority to the person paying the expenses as provided under this section.

(2) The reimbursements shall be paid out of the proceeds from revenue bonds issued for or other moneys that may be used for the acquisition, construction, improvement, extension, expansion, maintenance, repair, or operation of the transportation project.

History. Acts 2007, No. 389, § 1; 2013, No. 497, § 4.

27-76-410. Consistency of planning.

(a)(1) A regional mobility authority may develop plans for transportation projects.

(2) The plans shall be consistent with state implementation plans, statewide transportation improvement programs if federal aid funds

are involved, statewide long-range transportation plans, city and county master street plans, and metropolitan transportation plans in metropolitan areas as required under 23 U.S.C. § 134 as it existed on January 1, 2007.

(b) Nothing in this section shall interfere with the responsibility and authority of metropolitan planning organizations to perform transportation systems planning as required under 23 U.S.C. § 134 as it existed on January 1, 2007.

(c) Nothing in this section shall interfere with the responsibility and authority of the Arkansas Department of Transportation and the State Highway Commission to perform transportation systems planning.

History. Acts 2007, No. 389, § 1; 2017, No. 707, § 427.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (c).

Subchapter 6 — Financing and Bonds

SECTION.
27-76-601. Financing generally.
27-76-602. Authority to issue bonds.
27-76-604. Bond resolution required.
27-76-605. Sale.
27-76-606. Proceeds.
27-76-607. Repayment.
27-76-609. Refunding bonds.
27-76-611. Revolving fund.

27-76-601. Financing generally.

(a) A regional mobility authority may be financed or supported by receiving the following:

(1) If requested and adopted, revenue from the levy by a member county of a sales tax under § 26-74-201 et seq., § 26-74-301 et seq., and § 26-74-401 et seq. for the benefit of the regional mobility authority;

(2) If requested and adopted, revenue from the levy by a member city of a sales tax under § 26-75-201 et seq. and § 26-75-301 et seq. for the benefit of the regional mobility authority;

(3) Revenue from a motor vehicle tax imposed by a county that is a member of a regional mobility authority under § 26-78-101 et seq.;

(4)(A) If authorized by law, requested, and adopted, revenue from the levy of an additional sales and use tax for the benefit of a regional mobility authority by a county or city not to exceed one-half of one percent (0.5%).

(B) A sales and use tax levied as described in this subdivision (a)(4) is in addition to any taxes levied under subdivisions (a)(1)-(3) of this section;

(5) Proceeds from tolls from toll facility projects owned by the regional mobility authority;

(6) Proceeds from charges and rates imposed on surface transportation systems owned by the regional mobility authority that are not toll facility projects;

(7) Proceeds from the sale of bonds;

(8) State turnback funds received from counties that are members of the regional mobility authority and cities that are within the boundaries of a regional mobility authority, under §§ 27-70-206 and 27-70-207;

(9) Other state funding that is appropriated; or

(10) Other funds from a state agency.

(b) Taxes and tolls imposed under subdivisions (a)(1)-(5) of this section shall be approved by voters pursuant to all applicable election laws.

(c)(1) A regional mobility authority shall not use revenue from a transportation project in a manner that is not authorized by this chapter or other law.

(2) Except as provided by this chapter, revenue derived from a transportation project shall not be applied for a purpose or to pay a cost other than a cost or purpose that is reasonably related to or anticipated to be for the benefit of a transportation project.

History. Acts 2007, No. 389, § 1; 2013, No. 497, § 5.

27-76-602. Authority to issue bonds.

(a) If a regional mobility authority created under this chapter owns or operates or proposes to own or operate a transportation system and desires to construct improvements, betterments, and extensions thereto, the regional mobility authority may issue revenue bonds pursuant to a bond resolution and under the provisions of this chapter to pay the cost of a transportation project or to pay all or part of the cost of a transportation project that will become part of a transportation system.

(b) If a regional mobility authority pursues the development of a toll facility project, the regional mobility authority may issue revenue bonds pursuant to a bond resolution and under the provisions of this chapter to pay the toll facility project costs with toll facility project revenues.

History. Acts 2007, No. 389, § 1; 2013, No. 497, § 6.

27-76-604. Bond resolution required.

(a) Bonds issued in accordance with this chapter shall be authorized by resolution of the board of directors of the regional mobility authority.

(b) The bonds may be issued as registered bonds and may be exchangeable for bonds of another denomination or in another form.

(c) As determined in the bond resolution, the bonds of each issue shall:

(1) Be dated;

(2) Bear interest at the rate or rates provided by the bond resolution beginning on the dates provided by the bond resolution as authorized by law or bear no interest;

(3) Mature at the time or times provided by the bond resolution, not exceeding forty (40) years from their date or dates; and

(4) Be made redeemable before maturity at the price or prices and under the terms provided by the bond resolution.

(d) As determined in the bond resolution, the bonds of each issue may:

(1) Be in the form and denominations determined by the board of directors of the regional mobility authority;

(2) Be payable at the places within or without the state determined by the board of directors of the regional mobility authority; or

(3) Contain the terms and conditions determined by the board of directors of the regional mobility authority.

(e) The bonds shall have all of the qualities of and shall be deemed to be negotiable instruments under the laws of the State of Arkansas, subject to provisions as to registration as set forth in this section.

(f) The authorizing resolution may contain any other terms, covenants, and conditions that the board of directors of the regional mobility authority deem to be reasonable and desirable, including without limitation those pertaining to the:

(1) Maintenance of various funds and reserves;

(2) Nature and extent of any security for payment of the bonds;

(3) Custody and application of the proceeds of the bonds;

(4) Collection and disposition of revenues;

(5) Investment for authorized purposes; and

(6) Rights, duties, and obligations of the regional mobility authority and the holders and registered owners of the bonds.

(g)(1) The authorizing resolution may provide for the execution of a trust indenture between the regional mobility authority and any financial institution within or without the State of Arkansas.

(2) The trust indenture may contain any terms, covenants, and conditions that are deemed desirable by the board of directors of the regional mobility authority, including without limitation those pertaining to the:

(A) Maintenance of various funds and reserves;

(B) Nature and extent of any security for the payment of the bonds;

(C) Custody and application of the proceeds of the bonds;

(D) Collection and disposition of revenues;

(E) Investment and reinvestment of any moneys during periods not needed for authorized purposes; and

(F) Rights, duties, and obligations of the regional mobility authority and the holders and registered owners of the bonds.

(h)(1) An authorizing resolution and trust indenture relating to the issuance and security of the bonds shall constitute a contract between the regional mobility authority and the holders or registered owners of the bonds.

(2) The contract and all covenants, agreements, and obligations in the contract shall be promptly performed in strict compliance with the terms and provisions of the contract, and the covenants, agreements,

and obligations of the regional mobility authority may be enforced by mandamus or other appropriate proceeding at law or in equity.

(i)(1) The resolution shall fix the minimum fees, fares, tolls, or charges to be collected prior to the payment of all of the bonds, with exceptions as may be provided in the resolution, and shall pledge the revenues derived from the regional mobility authority's transportation system or any specified portion of the regional mobility authority's transportation system for the purpose of paying the bonds and interest on the bonds.

(2) The rates to be charged for the use of the regional mobility authority's transportation system shall be sufficient to provide for the payment of all principal of and interest on all bonds when due.

(j)(1) Additional bonds may be issued in the same manner to pay the costs of a transportation project.

(2) Unless otherwise provided in the bond resolution, the additional bonds shall be on a parity, without preference or priority, with bonds previously issued and payable from the revenue of the transportation project.

(3) A regional mobility authority may issue bonds for a transportation project secured by a lien on the revenue of the transportation project subordinate to the lien on the revenue securing other bonds issued for the transportation project.

History. Acts 2007, No. 389, § 1; 2013, No. 497, § 7.

27-76-605. Sale.

(a) The bonds may be sold in the manner, either at public or private sale, and upon the terms that the board of directors of the regional mobility authority determines to be reasonable and expedient for effectuating the purposes of the regional mobility authority.

(b) The bonds may be sold at a price that the board of directors of the regional mobility authority determine to be in the best interest of the regional mobility authority, including sale at discount.

(c)(1) The bonds shall be executed by manual or facsimile signature of the chair of the regional mobility authority and the manual or facsimile signature of the secretary of the regional mobility authority or any other officer of the regional mobility authority authorized to do so by resolution of the board of directors.

(2) In case any of the officers whose signatures appear on the bonds shall cease to be the officers before delivery of the bonds, their signatures nevertheless shall be valid and sufficient for all purposes.

(d) Each bond shall be impressed or imprinted with the seal of the regional mobility authority.

History. Acts 2007, No. 389, § 1; 2013, No. 497, § 8.

27-76-606. Proceeds.

(a) The proceeds of each bond issue shall be disbursed in the manner and under any restrictions as provided in the bond resolution.

(b)(1) The proceeds derived from the sale of the bonds shall be used solely for the purpose of:

(A) Making betterments, improvements, and extensions to a surface transportation system that is either owned or operated or is proposed to be owned or operated by the regional mobility authority;

(B) Paying interest on the bonds during the period of construction of the betterments, improvements, and extensions;

(C) Establishing any necessary reserves for the bonds;

(D) Paying the costs of issuing the bonds; and

(E) Paying any other costs and expenditures of whatever nature incidental to the accomplishment of the betterments, improvements, and extensions.

(2) The terms "betterments", "improvements", and "extensions" include surface transportation systems as well as all other real and personal property, buildings, structures, or other improvements or facilities as may be necessary or advisable for the proper and efficient operation of the regional mobility authority's surface transportation system.

(c) If the proceeds of a bond issue exceed the cost of the transportation project for which the bonds were issued, the surplus shall be segregated from the other money of the regional mobility authority and used only for the purposes specified in the bond resolution.

(d) To the extent permitted under the applicable bond proceedings, revenue from one (1) transportation project or toll facility project of a regional mobility authority may be used to pay the cost of another transportation project or toll facility project of the same regional mobility authority.

History. Acts 2007, No. 389, § 1; 2013, No. 497, § 9.

27-76-607. Repayment.

(a) Bonds issued under this chapter shall be payable from revenues derived from the regional mobility authority's transportation system and any other unrestricted funds of the regional mobility authority.

(b) The bonds shall not in any event constitute an indebtedness of nor pledge the faith and credit of the State of Arkansas or the county or counties or municipality or municipalities creating the regional mobility authority within the meaning of any constitutional provisions or limitations.

(c) It shall be plainly stated on the face of each bond that it:

(1) Is issued under the provisions of this chapter;

(2) Does not constitute an indebtedness of the State of Arkansas or the county or counties or the municipality or municipalities creating the

regional mobility authority within any constitutional provisions or limitations; and

(3) Is not backed by the full faith and credit of the State of Arkansas or the county or counties or municipality or municipalities creating the regional mobility authority.

(d) The bonds and the interest on the bonds shall be exempt from all state, county, and municipal taxation, including without limitation income taxation and inheritance taxation.

History. Acts 2007, No. 389, § 1; 2013, No. 497, § 10.

27-76-609. Refunding bonds.

(a)(1) Bonds may be issued for the purpose of refunding any obligations issued under this chapter or otherwise.

(2) The refunding bonds may be combined with bonds issued under the provisions of § 27-70-314 [repealed] into a single issue.

(b)(1) When bonds are issued under this section for refunding purposes, the bonds may either be sold or delivered in exchange for the outstanding obligations.

(2) If sold, the proceeds may, either at maturity or upon any authorized redemption date, be either:

(A) Applied to the payment of the obligations refunded; or

(B) Deposited in escrow for the retirement thereof.

(c)(1) Bonds issued under this section shall in all respects be authorized, issued, and secured in the manner provided for other bonds issued under this chapter.

(2) The resolution or indenture under which the refunding bonds are issued may provide that any of the refunding bonds shall have the same priority of lien on the revenues pledged for their payment as was enjoyed by the obligations refunded thereby.

History. Acts 2007, No. 389, § 1; 2013, No. 497, § 11.

27-76-611. Revolving fund.

(a) A regional mobility authority may maintain a revolving fund to be held in trust by a banking institution chosen by the regional mobility authority separate from any other funds and administered by the regional mobility authority's board of directors.

(b) A regional mobility authority may transfer into its revolving fund money from any permissible source, including:

(1) Funds from a transportation project if the transfer does not diminish the money available for the project to less than any amount required to be retained by the bond proceedings pertaining to the project;

(2) Funds received by the regional mobility authority from any source and not otherwise committed, including money from the transfer

of a transportation project or system as provided under § 27-76-408 or the sale of surplus assets of the regional mobility authority;

(3) Funds received from the Arkansas Department of Transportation and the State Highway Commission; and

(4) Contributions, loans, grants, or assistance from any governmental entity, private entity, or person.

(c) The regional mobility authority may use money in the revolving fund to:

(1) Finance the acquisition, construction, maintenance, or operation of a transportation project of a regional mobility authority including the extension, expansion, or improvement of a transportation project;

(2) Provide matching money required in connection with any federal, state, local, or private aid, grant, or other funding, including aid or funding by or with public-private partnerships;

(3) Provide credit enhancement either directly or indirectly for bonds issued to acquire, construct, extend, expand, or improve a transportation project or a transportation system;

(4) Provide security for or payment of future or existing debt for the design, acquisition, construction, operation, maintenance, extension, expansion, or improvement of a transportation project or a transportation system;

(5) Borrow money and issue promissory notes or other indebtedness payable out of the revolving fund for any purpose authorized by this chapter; and

(6) Provide for any other reasonable purpose that assists in the financing of a regional mobility authority as authorized by this chapter.

(d)(1) Money spent or advanced from the revolving fund for a transportation project or a transportation system must be reimbursed from the money of that transportation project or transportation system.

(2) At the time that the expenditure or advancement is authorized, a reasonable expectation of repayment must exist.

History. Acts 2007, No. 389, § 1; 2017, No. 707, § 428.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (b)(3).

Subchapter 7 — Tolling

SECTION.
27-76-705. Surplus revenue.
27-76-706. Arkansas Department of Transportation contributions to toll road projects.
27-76-708. Requirement that an operator of a motor vehicle pay a toll.

27-76-705. Surplus revenue.

(a) Each year, a regional mobility authority shall determine whether it has surplus revenue from tolls, fees, or fares collected from the operation of its transportation projects.

(b) If a regional mobility authority determines that it has surplus revenue, then it may either:

(1) Reduce the tolls, fees, or fares; or

(2) Spend the surplus revenue on other transportation projects in the counties or municipalities within the jurisdictional boundaries of the regional mobility authority as provided under subsection (c) of this section.

(c) Consistent with other laws and the rules and resolutions of the regional mobility authority, a regional mobility authority may spend surplus revenue on other transportation projects by:

(1) Constructing a transportation project located within the county or counties of the authority;

(2) Assisting in the financing of a toll or toll-free transportation project of another governmental entity; or

(3) Constructing a toll or toll-free transportation project and, on completion of the project, transferring the project to another governmental entity if:

(A) The other governmental entity authorizes the regional mobility authority to construct the project and agrees to assume all liability and responsibility for the maintenance and operation of the project on its transfer; and

(B) The project is constructed in compliance with all laws applicable to the governmental entity.

History. Acts 2007, No. 389, § 1; 2013, No. 497, § 12.

27-76-706. Arkansas Department of Transportation contributions to toll road projects.

(a)(1) A regional mobility authority and the Arkansas Department of Transportation and the State Highway Commission may agree to allow the department to contribute to the payment of costs of any of the following in regards to a toll road:

(A) A financial study;

(B) An engineering study;

(C) A traffic feasibility study; or

(D) The design, financing, acquisition, construction, operation, or maintenance of a toll road.

(2) The agreement shall not be inconsistent with the rights of the bondholders or persons operating the toll road under a lease or other contract.

(b) The department may use its engineering or other personnel, including consulting engineers or traffic engineers, to conduct feasibility studies under subsection (a) of this section.

(c)(1) An obligation or expense incurred by a regional mobility authority or the department under this section is a part of the cost of the toll road for which the obligation or expense was incurred.

(2) A regional mobility authority may require money contributed under this section to be repaid from tolls or other revenue of the toll road on which the money was spent.

(3) Money repaid as required by a regional mobility authority or the department shall be deposited to the credit of the fund from which the contribution was made.

(d) A regional mobility authority or the department may use federal money for any purpose described by this chapter.

(e) A toll road developed by a regional mobility authority shall not be part of the state highway system unless the regional mobility authority and the commission so agree.

(f)(1) The commission may grant or loan department money to a regional mobility authority for the acquisition of land for the construction, maintenance, or operation of a toll road.

(2) The commission may require the authority to repay money provided under this section from toll revenue or other sources on terms established by the commission.

(g) Money repaid as required by the commission shall be deposited to the credit of the fund from which the money was provided.

History. Acts 2007, No. 389, § 1; 2017, No. 707, § 429.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in the section heading and (a)(1).

27-76-708. Requirement that an operator of a motor vehicle pay a toll.

(a)(1) Except as provided under subdivisions (a)(2) and (3) of this section, the operator of a vehicle that is driven or towed through a toll collection facility of a toll road owned by a regional mobility authority shall pay the proper toll.

(2) An authorized emergency vehicle is not required to pay a toll.

(3) A regional mobility authority may waive the requirement of the payment of a toll or may authorize the payment of a reduced toll for any vehicle or class of vehicles.

(b)(1) A violation of this section is an administrative offense and a Class B misdemeanor.

(2) The regional mobility authority or its designee shall attempt collection of the unpaid toll through the administrative procedures under §§ 27-76-710 — 27-76-712 before pursuing prosecution under § 27-76-713.

(3) If the regional mobility authority or its designee is unable to collect an unpaid toll through administrative procedures, then the matter shall be transferred to the appropriate prosecuting attorney.

History. Acts 2007, No. 389, § 1; 2019, No. 394, § 9.

Amendments. The 2019 amendment deleted "as defined under § 27-49-219(d)" following "authorized emergency vehicle" in (a)(2).

SUBTITLE 6. BRIDGES AND FERRIES

CHAPTER 85
GENERAL PROVISIONS

SECTION.
27-85-101. Conservation of bridges.

27-85-101. Conservation of bridges.

It is directed that the administrators of the various public highway, road, and street systems shall make every effort to conserve the safe function of the bridges under their jurisdiction pursuant to the findings and recommendations of the bridge safety inspections by the bridge inspection teams of the Arkansas Department of Transportation in accord with the national bridge inspection standards published in the Federal Register.

History. Acts 1971, No. 249, § 1; A.S.A. 1947, § 41-3364; Acts 2017, No. 707, § 430.

Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department".

CHAPTER 86
BRIDGES

SUBCHAPTER.
1. General Provisions.
2. Private Franchises.

Subchapter 1 — General Provisions

SECTION.
27-86-103. Lights on toll bridges.

27-86-103. Lights on toll bridges.

(a) Provisions are made for the regulation of the number of lights or bulbs and the monthly and annual expenditures for electric lights on all toll bridges in the State of Arkansas.

(b)(1) No toll bridge in the State of Arkansas shall have more than four (4) electric lights or bulbs, known as navigation lights, except as otherwise provided for by the federal government.

(2) Each bulb or light shall not be in excess of seventy-five watts (75 W).

(3) One (1) bulb shall be placed in the center of each bridge at the open end of the toll bridge or bridges, just above or in the center of a sign or poster, which name shall appear and be read and be known as "TOLL BRIDGE", and the bulb shall fully display the sign or poster at night of its purpose.

(4) The other end of the toll bridge where the toll house is located shall not have in excess of three (3) bulbs, one (1) in each driveway or

on either side of the toll house, including one (1) inside the toll house or left to the discretion of the Chief Engineer of the Arkansas Department of Transportation.

(5) Should more lights or bulbs exist than those mentioned in this section, their installation shall be invalid and any person or persons installing more lights shall be responsible for their expense.

History. Acts 1933, No. 20, §§ 1-3; Pope's Dig., §§ 6598 — 6600; A.S.A. 1947, §§ 76-1609, 76-1610, 76-1610n; Acts 2017, No. 707, § 431.

Amendments. The 2017 amendment, in (b)(4), substituted "Department of Transportation" for "State Highway and Transportation Department", and made a stylistic change.

Subchapter 2 — Private Franchises

SECTION.

27-86-210. State purchase of private toll bridges — Construction of free bridges.

27-86-210. State purchase of private toll bridges — Construction of free bridges.

(a) The State Highway Commission is authorized and empowered to purchase any or all of the privately owned toll bridges in the State of Arkansas at prices to be fixed by the commission in accordance with rules to be promulgated by the commission.

(b) Where it is not possible to purchase any privately owned toll bridges, then the commission is authorized to construct bridges at places where there are now operated any privately owned toll bridges.

(c) The purchase of each bridge shall include the right-of-way, franchise, and license, if any, and all right, title, and interest and claim of the owner in and to it together with all appurtenances thereunto belonging.

(d) No money shall be paid over on the purchase of a toll bridge under authority of this section until there has been a conveyance by the owner to the State of Arkansas of the bridge proper together with approaches, right-of-way, license, franchise, and whatever other outstanding claim, right, title, or interest there may be in the bridge, to the end that the state may completely own and control the bridge and that the public may use it free of toll.

(e) The state shall repair and maintain all bridges purchased by authority of this section in the same manner that it now or may hereafter repair and maintain bridges which are parts of the state highway system.

History. Acts 1938 (1st Ex. Sess.), No. 15, §§ 2-5; 1939, No. 276, § 1; A.S.A. 1947, §§ 76-606 — 76-609; Acts 2019, No. 315, § 3175.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (a).

CHAPTER 87

FERRIES

SUBCHAPTER.
1. General Provisions.

Subchapter 1 — General Provisions

SECTION.
27-87-103. Public ferry on private stream.

27-87-103. Public ferry on private stream.

(a) Where a public road crosses any private stream which has not been meandered as a navigable stream, the bed of which may belong to any individual, if in the opinion of the county court, the public convenience will be promoted thereby, the court may make an order upon its record to that effect, declaring the crossing to be a public ferry.

(b) And when so declared by the county court, the ferry shall be and remain a public ferry during the pleasure of the court and be subject to all the rules and restrictions that are made by law applicable to public ferries on navigable streams.

History. Rev. Stat., ch. 62, § 21; C. & M. Dig., § 4721; Pope's Dig., § 5820; A.S.A. 1947, § 76-1726; Acts 2019, No. 315, § 3176.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (b).

CHAPTER 88

BONDS FOR CONSTRUCTION AND OPERATION

SECTION.
27-88-121. Right of eminent domain.

27-88-121. Right of eminent domain.

For the purpose of acquiring any land, rights, easements, franchises, or other real or personal property deemed to be necessary or convenient for the construction and reconstruction of any bridge or ferry, or for the acquisition of the approaches thereto, the State Highway Commission shall have the right of eminent domain, as is provided in §§ 27-64-104 and 27-67-316.

History. Acts 1953, No. 104, § 12; A.S.A. 1947, § 76-628; Acts 2017, No. 448, § 43.

Amendments. The 2017 amendment deleted "in Acts 1927, No. 116, § 5 and Acts 1933, No. 115, § 1 and" following "is provided".

CHAPTER 89

INTERSTATE COMPACTS

SUBCHAPTER.
3. Arkansas-Mississippi Great River Bridge Construction Compact.

Subchapter 3 — Arkansas-Mississippi Great River Bridge Construction Compact

SECTION.
27-89-305. Use of state funds — Appropriation necessary for construction funds.

27-89-305. Use of state funds — Appropriation necessary for construction funds.

The State Highway Commission is authorized to use moneys appropriated for the operation of the Arkansas Department of Transportation for payment of the State of Arkansas's pro rata share of the administrative costs of the compact authority, but shall have no authority to authorize, or contract for, the use of moneys in the State Highway and Transportation Department Fund for the construction of the Arkansas-Mississippi Great River Bridge, except upon specific authorization and appropriation thereof by the General Assembly.

History. Acts 1985, No. 27, § 5; A.S.A. 1947, § 76-2109; Acts 2017, No. 707, § 432.
Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department".

CHAPTER 90

TOLL HIGHWAYS

SUBCHAPTER.
2. Turnpike Projects and Tolls.

Subchapter 2 — Turnpike Projects and Tolls

SECTION.
27-90-202. Authority of commission to undertake turnpike projects.
27-90-204. Revenue — Use of revenues.

27-90-202. Authority of commission to undertake turnpike projects.

(a) The State Highway Commission is authorized and empowered to: (1)(A) Acquire by purchase or exercise of its powers of eminent domain sites and rights-of-way for, and construct, maintain, repair, and operate, turnpike projects at such locations as it shall determine in accordance with proper design and construction standards.

(B)(i) Turnpike projects shall be constructed in accordance with applicable laws pertaining to competitive bidding, contracting, performance and payment bonds, and other matters applicable to similar highway construction by the commission.

(ii) However, turnpike projects developed in cooperation with other states, agencies, or political subdivisions thereof or nonmember nonstock transportation corporations created under the laws of another state may be developed, operated, and maintained on the basis of contracts for the design, engineering, procurement and construction, and like arrangements for the integrated development of turnpike projects or pursuant to the basis for the development, operation, and maintenance of a turnpike project permitted under the laws of another state upon the commission's setting forth in a resolution its finding that any such arrangement is the preferable method for development of the turnpike project and the reasons for such finding;

(2) Apply for, receive, accept, and use any moneys and properties from agencies of the United States Government, from any state or other governmental agency or political subdivision, from any public or private corporation, agency, or organization of any nature, and from any individual or group of individuals;

(3) Establish accounts in one (1) or more banks and thereafter from time to time make deposits in and withdrawals from such accounts and otherwise invest or reinvest its money;

(4) Obtain the necessary funds for financing the objects specified in this subchapter, including without limitation the proceeds of the sale of revenue bonds as authorized in this subchapter;

(5) Fix, revise from time to time, charge, and collect tolls for transit over each turnpike project constructed;

(6) Establish rules for the use of each turnpike project;

(7) Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, and other employees and agents that may be necessary in its judgment;

(8) Enter into and implement any agreements or compacts with the United States or any state or any department or agency of the United States or of any state, or a political subdivision of any state, or any person concerning operation, revenues, or other matters pertaining to planning, financing, constructing, and operating turnpike projects leading from this state into another state or states and turnpike projects to be developed and operated jointly, whether by the commission, by another party to the agreement or compact, by an agency created pursuant to the agreement or compact, or by another person, whether or not leading from this state into another state or states; and

(9) Take such other action, not inconsistent with law, as may be necessary or desirable to carry out the powers conferred by this subchapter and to carry out the intent and purposes of this subchapter.

(b) Each turnpike project shall be separately designated by appropriate name or number and may be constructed, reconstructed, reha-

bilitated, or extended in sections and stages as the commission may from time to time determine.

History. Acts 1995, No. 1232, § 1; 2003, No. 296, § 2; 2019, No. 315, § 3177.
Amendments. The 2019 amendment deleted "and regulations" following "rules" in (a)(6).

27-90-204. Revenue — Use of revenues.

(a) Revenues derived from any turnpike project that are used to secure revenue bonds shall be deposited in a bank or banks selected by the State Highway Commission.

(b) The turnpike project revenues are declared to be cash funds, restricted in their use, and dedicated and to be used solely as authorized in this subchapter.

(c)(1) The revenues shall be used for the following purposes subject to the order and priority provided in the trust indenture or the authorizing resolution:

(A) To pay the reasonable expenses of maintenance, repair, and operation of the turnpike project or projects involved;

(B) To pay as due the debt service on all revenue bonds to which revenues of the turnpike project or projects are pledged, including the original issue or issues, bonds issued for reconstruction and extension, and refunding bonds, as authorized in this subchapter;

(C) For the establishing or, once established, for maintaining any reserves as provided in the authorizing resolution or the trust indenture;

(D) For the redemption of bonds prior to maturity, if provision is made for redemption, all as shall be specified in detail in the trust indenture, and all indentures supplemental thereto, securing the bonds;

(E) To pay as due the debt service on turnpike projects other than the turnpike project from which derived; and

(F) For other lawful commission purposes.

(2) Any other revenue shall be transferred to the Treasurer of State, who shall transfer such revenue to the Arkansas Department of Transportation, there to be used for the maintenance, operation, and improvement required by the department in carrying out its functions, powers, and duties.

(d) Turnpike project revenues shall not be subject to the provisions in § 27-70-206.

History. Acts 1995, No. 1232, § 1; 2003, No. 296, § 4; 2017, No. 707, § 433.
Amendments. The 2017 amendment substituted "Department of Transportation" for "State Highway and Transportation Department" in (c)(2).

SUBTITLE 7. WATERCOURSES AND NAVIGATION

CHAPTER 101

WATERCRAFT

SUBCHAPTER.

1. General Provisions.
2. Operation.
3. Motorboat Registration and Numbering.
4. Funds — Marine Sanitation.
5. Boater Safety.
6. Personal Watercraft.
8. Boat Dock and Marina Safety.
9. Arkansas Paddlesport Activities Act.
10. Arkansas Motorboat Registration and Titling Act.

Subchapter 1 — General Provisions

SECTION.

27-101-102. Applicability — Effect on ordinances, regulations, etc.
27-101-103. Definitions.
27-101-105. Enforcement — Failure to obey officer.
27-101-108. Filing and publication of rules.
27-101-110. Deposit of funds in State Treasury.
27-101-111. Distribution of funds.
27-101-112. Refund of application fees.
27-101-113. Payment by credit card.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

27-101-102. Applicability — Effect on ordinances, regulations, etc.

(a) The provisions of this chapter and of other applicable laws of this state shall govern the operation, equipment, numbering, and all other matters relating to the operation, equipment, and numbering whenever any vessel shall be operated on the waters of this state or when any activity regulated by this subchapter shall take place on the waters of this state.

(b) Nothing in this subchapter shall be construed to:

(1) Prevent the adoption of any ordinance or local law relating to operation and equipment of vessels, the provisions of which are

identical to or are not in conflict with the provisions of this subchapter, amendments thereto, or rules issued thereunder;

(2) Grant the use or power to the Arkansas State Game and Fish Commission or to any person to authorize the use of any vessel on any waters of this state where the use of vessels shall be prohibited; or

(3) Permit the use of vessels on any municipally or privately owned city water supply in violation of the applicable laws, rules, or regulations that may have been or may be established for the protection of the public health in preserving the water supply for human consumption.

History. Acts 1959, No. 453, § 13; A.S.A. 1947, § 21-233; Acts 2003, No. 1774, § 1; 2019, No. 315, § 3178.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (b)(1).

27-101-103. Definitions.

As used in this chapter unless otherwise specified in the particular subchapter:

(1) "Certificate of number" means a motorboat registration or motorboat registration certificate;

(2) "Length" means the extreme deck fore-and-aft measurement of a vessel;

(3) "Marina" means a dock or basin providing moorings for motorboats and offering supply, repair, or other services for remuneration;

(4) "Marine sanitation device" means equipment that is identified by the United States Coast Guard as meeting the standards of the United States Environmental Protection Agency to eliminate the discharge of untreated sewage from vessels and is a device that receives, treats, retains, or discharges sewage;

(5) "Motorboat" means any vessel operated upon water and which is propelled by sail or machinery, whether or not the machinery is the principal source of propulsion but shall not include a vessel that has a valid marine document issued by the United States Customs and Border Protection or any federal agency successor thereto;

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel;

(7) "Operator" means a person who is controlling the speed and direction of a vessel or a person who is in direct physical control of a vessel;

(8)(A) "Owner" means a person other than a lienholder having the property in or title to a motorboat.

(B) "Owner" includes a person entitled to the use or possession of a motorboat subject to an interest in another person reserved or created by agreement and securing payment or performance of an obligation, but "owner" excludes a lessee under a lease not intended as security;

(9) "Person" means an individual, partnership, firm, corporation, association, or other entity;

(10) "Personal watercraft" means a vessel which uses an inboard motor powering a water jet pump as its primary source of motive power

and which is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel;

(11) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation;

(12)(A) "Water sport activity" means an activity that involves a person being towed by a motorboat, personal watercraft, or other vessel in waters of this state.

(B) "Water sport activity" shall include, but not be limited to, any of the following activities:

(i) Barefooting;

(ii) Wake boarding;

(iii) Wake surfing;

(iv) Water skiing;

(v) Water sledding; or

(vi) Water tubing.

(C) "Water sport activity" does not include organized water carnivals, water skiing exhibitions, or other organized water sports exhibitions; and

(13)(A) "Waters of this state" means any public waters within the territorial limits of the State of Arkansas.

(B) However, waters that are confined within a pond, tank, or lake, situated entirely on the premises of a single owner, and that except under abnormal flood conditions are in no way connected by water or with any other flowing stream or body of water or with any other body of water not situated on the premises of the owner are declared to be privately owned waters and shall not be construed to be waters of this state.

History. Acts 1959, No. 453, § 2; 1961, No. 423, § 1; 1973, No. 395, § 1; A.S.A. 1947, §§ 21-222, 21-248; Acts 1987, No. 122, §§ 1, 7; 1995, No. 517, § 1; 2003, No. 1774, § 2; 2005, No. 1297, § 1; 2019, No. 733, §§ 6, 7.

Amendments. The 2019 amendment deleted the definition for "Commission" and added the definition for "Certificate of number".

27-101-105. Enforcement — Failure to obey officer.

(a)(1)(A) It shall be the duty of every sheriff, deputy sheriff, state police officer, and enforcement officer of the Arkansas State Game and Fish Commission to enforce the provisions of this chapter, except that it shall be the duty of the Department of Health separately to enforce the provisions of § 27-101-401 et seq.

(B) Certified law enforcement officers of the Department of Parks, Heritage, and Tourism and municipal police officers may enforce the provisions of this chapter.

(2) In the exercise of their duty to enforce the provisions of this chapter, they shall have the authority to stop and board any vessel

subject to this chapter and to investigate any accident or violation involving vessels subject to this chapter.

(3) Upon investigation, they may direct the operator of any vessel in violation of this chapter to return to the dock where the voyage originated or to the nearest dock if appropriate.

(b) Failure to follow the directive of a law enforcement officer as set forth in subsection (a) of this section shall constitute a separate offense in addition to any violations with which the operator may be charged.

(c) Any person who violates the provisions of this section shall be guilty of a misdemeanor and subject to a fine not to exceed two hundred fifty dollars ($250) or imprisonment not to exceed three (3) months, or both.

History. Acts 1959, No. 453, § 19; 1963, No. 140, § 4; A.S.A. 1947, § 21-239; Acts 1987, No. 122, § 5; 1993, No. 458, § 1; 1995, No. 517, § 3; 1999, No. 146, § 1; 2003, No. 1774, § 3; 2019, No. 910, § 5732.

Amendments. The 2019 amendment substituted "Department of Parks, Heritage, and Tourism" for "Department of Parks and Tourism" in (a)(1)(B).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Christian Harrod, Note: Constitutional Law—Fourth Amendment—State v. Allen: An Effective Alternative to Unconstitutional "Safety Checks" on the State's Waters, 38 U. Ark. Little Rock L. Rev. 105 (2015).

CASE NOTES

Unconstitutional Stop.

In the absence of objective facts supporting the stop or a plan embodying explicit neutral limitations, a law-enforcement officer's practice of stopping vessels on bodies of water to perform a safety check violated the Fourth Amendment to the United States Constitution. State v. Allen, 2013 Ark. 35, 425 S.W.3d 753 (2013).

27-101-108. Filing and publication of rules.

(a) A copy of the rules adopted pursuant to this subchapter, § 27-101-201 et seq., § 27-101-301 et seq., § 27-101-501 et seq., § 27-101-601 et seq., and the Arkansas Motorboat Registration and Titling Act, § 27-101-1001 et seq., and of any amendments of those rules shall be filed in the offices of the Arkansas State Game and Fish Commission, the Secretary of State, the Arkansas State Library of the Department of Education, and the Bureau of Legislative Research where each copy shall be preserved as a public record.

(b) A copy of the rules adopted under § 27-101-401 et seq. and of any amendments of those rules shall be filed in the offices of the Department of Health, the Secretary of State, the Arkansas State Library, and the Bureau of Legislative Research where each copy shall be preserved as a public record.

(c) Rules under this section shall be published by the responsible state agency in a convenient form for public use.

History. Acts 1959, No. 453, § 16; 1963, No. 140, § 3; A.S.A. 1947, § 21-236; Acts 2003, No. 1774, § 5; 2019, No. 315, § 3179; 2019, No. 733, § 8.

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in the section heading and in (c); and substituted "rules" for "regulations" throughout (a) and (b).

The 2019 amendment by No. 733 inserted "and the Arkansas Motorboat Registration and Titling Act, § 27-101-1001 et seq." in (a).

27-101-110. Deposit of funds in State Treasury.

(a) Except as otherwise provided in this chapter, all fees collected by the Secretary of the Department of Finance and Administration under this chapter shall be deposited as special revenues into the State Treasury to the credit of the Special Revenue Fund Account of the State Apportionment Fund.

(b) The fees collected under subsection (a) of this section shall be credited to the Boating Safety Account Fund, which is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State.

History. Acts 1987, No. 122, § 2; 2003, No. 1774, § 7; 2019, No. 733, § 9; 2019, No. 910, § 4818.

Amendments. The 2019 amendment by No. 733 added the subsection designations; in (a), substituted "Except as otherwise provided in this chapter, all" for "All", deleted "the provisions of" following "under", and substituted "into" for "in"; and substituted "The fees collected under subsection (a) of this section" for "All these funds" in (b).

The 2019 amendment by No. 910 substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration".

27-101-111. Distribution of funds.

(a) On or before the fifth of the month next following the month during which the funds shall have been received by him or her, the Treasurer of State shall distribute the funds in the manner provided in this section:

(1) Three percent (3%) of the amount to the Constitutional Officers Fund and the State Central Services Fund to be used for defraying the necessary expenses of the state government; and

(2) Ninety-seven percent (97%) of the amount as follows:

(A) Eight percent (8%) to the Constitutional Officers Fund and the State Central Services Fund;

(B) Thirty-four percent (34%) to the Game Protection Fund for use by the Arkansas State Game and Fish Commission as provided by law;

(C) Thirty-four percent (34%) to the County Aid Fund, which, on or before the tenth of the month following the end of each calendar quarter, shall be remitted by state warrants to the various county treasurers in the proportions thereof as between the respective counties that the total of the fees produced from each county bears to the total of the fees produced from all counties as certified by the

Secretary of the Department of Finance and Administration to the Treasurer of State; and

(D) Twenty-four percent (24%) to the Marine Sanitation Fund for use by the Department of Health to administer a marine sanitation program.

(b) Upon receipt of any fees, each county treasurer shall deposit them into the county treasury to the credit of the boating safety and enforcement fund, if the county sheriff of that county has established a patrol on the waterways within the county.

(c)(1) In the event the county sheriff has not established a patrol on the waterways within the county and if either the county or any city or town within a county, or both, has established an emergency rescue service, each county treasurer shall deposit his or her county's share of the total fees collected into the county emergency rescue fund for use exclusively by either the county or the cities within the county, or both, for operating and maintaining emergency rescue services within the county and cities within the county. After the treasurer receives the funds, he or she shall divide the funds in the county emergency rescue fund equally among the county and the cities within the county, if any, having emergency rescue services.

(2) Otherwise, the fees shall be deposited into the Game Protection Fund for use by the Arkansas State Game and Fish Commission.

History. Acts 1987, No. 122, § 2; 2003, No. 1774, § 8; 2019, No. 910, § 4819.

Amendments. The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (a)(2)(C).

27-101-112. Refund of application fees.

An application fee collected by the Office of Motor Vehicle under this chapter shall be:

(1) Refunded to the applicant if the application is refused or rejected; or

(2)(A) Refunded to the applicant if the fee was not required to be paid under this chapter.

(B) A refund shall not be issued under subdivision (2)(A) of this section if the applicant fails to submit an application for refund within six (6) months from the date the applicant paid the application fee.

History. Acts 2019, No. 733, § 10.

27-101-113. Payment by credit card.

(a) The Secretary of the Department of Finance and Administration may:

(1) Allow payment by credit card of any fees due under this chapter;

(2) Promulgate rules providing for payment by credit card of any fees authorized under this chapter; and

(3) Contract with credit card companies to pay fees normally charged by those companies for allowing the use of their credit cards as authorized by this section.

(b)(1) The net proceeds received, or receivable, from credit card companies shall be prorated to the various funds for which they were collected and deposited into the State Treasury for transfer on the last business day of each month, in the same manner and to be used for the same purposes as all other fees collected upon the issuance or renewal of a motorboat registration with certificate of number and the issuance of a motorboat certificate of title.

(2) Any amounts deducted from the gross proceeds of motorboat registration with a certificate of number or titling fees paid by credit card, which are deducted for the purpose of paying credit card company fees, shall be cash funds not subject to appropriation and, if withheld by the secretary, shall be remitted by the secretary to credit card companies as required under contracts authorized by this section.

History. Acts 2019, No. 733, § 10.

Subchapter 2 — Operation

SECTION.
27-101-201. Liability of owner, renter, operator, or lessee of vessel for injury or damage — Exception.
27-101-203. Equipment requirements — Definition.
27-101-205. Collision or accident.
27-101-207. Liability insurance required — Definition.

27-101-201. Liability of owner, renter, operator, or lessee of vessel for injury or damage — Exception.

(a) The owner, renter, operator, or lessee of a vessel is liable for any injury or damage caused by the negligent operation of the vessel, whether negligence consists of violating the statutes of this state or neglecting to observe such ordinary care and operation as the rules of the common law require.

(b)(1) The owner is not liable, however, unless the vessel is being used with his or her express or implied consent.

(2)(A) The owner is not strictly liable to a renter, operator, or lessee for any injury or damage occasioned by the negligent operation of the vessel by the renter, operator, or lessee.

(B) The liability of the owner for injury or damage suffered by a renter, operator, or lessee shall be determined by comparing the fault of the owner and the fault of the renter, operator, or lessee in accordance with §§ 16-55-216 and 16-64-122.

(c) It shall be presumed that the vessel is being operated with the knowledge and consent of the owner if at the time of the injury or damage it is under the control of his or her spouse, father, mother,

brother, sister, son, daughter, or other immediate member of the owner's family.

(d) This section does not:

(1) Relieve any other person from any liability that he or she would otherwise have; or

(2) Authorize or permit any recovery in excess of injury or damage actually incurred.

(e) This section does not apply to an outfitter as defined in § 27-101-902.

History. Acts 1959, No. 453, § 14; A.S.A. 1947, § 21-234; Acts 2005, No. 1156, § 1; 2013, No. 221, § 1.

27-101-202. Restrictions on manner of operation.

RESEARCH REFERENCES

ALR. Validity, Construction, and Application of Statutes Prohibiting Boating While Intoxicated, Boating While under the Influence, or the Like. 47 A.L.R.6th 107.

27-101-203. Equipment requirements — Definition.

(a)(1) Every vessel shall have aboard:

(A) One (1) United States Coast Guard-approved wearable personal flotation device that is:

(i) Used according to its approved conditions;

(ii) In good and serviceable condition; and

(iii) Of proper size for each person on board;

(B) A vessel twenty-six feet (26') or over shall have a United States Coast Guard-approved and charged fire extinguisher on board;

(C) A motorboat under twenty-six feet (26') shall have a United States Coast Guard-approved and charged fire extinguisher on board if the motorboat has:

(i) Permanently installed fuel tanks;

(ii) Closed compartments under a thwart and seat where portable fuel tanks may be stored;

(iii) A double-bottom not sealed to the hull or not completely filled with flotation material;

(iv) Enclosed living spaces; or

(v) Closed stowage compartments where combustible or flammable materials may be stowed;

(D) If carrying or using any flammable or toxic fluid in any enclosure for any purpose, and if not an entirely open motorboat, an efficient natural or mechanical ventilation system which shall be capable of removing resulting gases prior to and during the time the motorboat is occupied by any person;

(E) Additional equipment designed to promote the safety of navigation and of persons that the Arkansas State Game and Fish

Commission may find to be appropriate and for which it has provided in its rules. However, before making those rules, or changes or additions thereto, the Arkansas State Game and Fish Commission shall hold public hearings, after reasonable notice thereof, of any proposed rule to be adopted; and

(F) In addition, every vessel sixteen feet (16') and longer shall have aboard one (1) United States Coast Guard-approved throwable personal flotation device.

(2) Each person being towed in a water sport activity must wear or have securely upon his or her body a life preserver or buoyant vest of the types described in subdivision (a)(1)(A) of this section in good and serviceable condition at all times while engaging in the water sport activity.

(3) In addition, all occupants of personal watercraft must wear a personal flotation device of the types described above while aboard the vessel.

(4) Occupants of a vessel who are twelve (12) years of age or younger must wear personal flotation devices of the types described above securely fastened to their persons at all times while aboard any vessel, unless such occupants are within the enclosed area of a houseboat or cruiser, unless underway, or within the area enclosed by railings on a party barge, cruiser, or houseboat, unless underway.

(5) In addition, the requirements of subdivisions (a)(1)(A) and (F) of this section and subdivisions (a)(2)-(4) of this section shall not be applicable to organized water carnivals, water skiing exhibitions, or other organized water sports exhibitions, or to persons participating in those activities or exhibitions.

(6) When in operation during hours of darkness on waters under the jurisdiction of the United States, a motorboat's lighting shall be in accordance with the following specifications:

(A) Class A and Class 1 under twenty-six feet (26') — combination red and green light on bow, with red on the port side and green on the starboard side, and a white horizon light aft, on the stern, that is visible for three hundred sixty degrees (360°) of the compass;

(B) Class 2 and Class 3, twenty-six feet (26') to not more than sixty-five feet (65') — twenty-point white light forward, red port and green starboard side lights, and white horizon light aft; and

(C) Lights must conform to the specifications contained in the United States Coast Guard Inland Navigation Rules.

(7) When in operation during hours of darkness on state-controlled waters, a motorboat's lighting shall be sufficient to make the motorboat's presence and location known to any and all other vessels within a reasonable distance.

(b) No person shall operate or give permission for the operation of a motorboat which is not equipped as required by subsection (a) of this section or a modification thereof.

(c) The use of dry stack headers or pipes extending directly from the engine of a motorboat which does not have any type of muffler is

prohibited except for motorboats competing in a sanctioned regatta or boat race and for those motorboats while on trial runs during a period not to exceed forty-eight (48) hours immediately preceding such regatta or race and for those motorboats while competing in official trials for speed records during a period not to exceed forty-eight (48) hours immediately following the regatta or race and only on the body of water where the regatta or boat race is being held.

(d) No vessel used on the waters of this state shall be equipped with a siren, except vessels used by law enforcement officers.

(e)(1)(A) No person shall operate a motorboat equipped by the manufacturer with a lanyard-type engine cutoff switch while the engine is used to propel the boat without attaching the lanyard to the operator, the operator's clothing, or if the operator is wearing a personal flotation device, to the device as appropriate for the specific vessel.

(B) However, if a motorboat equipped with a lanyard-type switch is a houseboat or a pontoon boat or is traveling less than five miles per hour (5 m.p.h.), the lanyard shall not be required to be attached to the operator, the operator's clothing, or the operator's personal flotation device.

(2) As used in this subsection, "lanyard-type engine cutoff switch" means an emergency engine or motor shut-off switch that attaches by a lanyard to the person operating the motorboat and that is constructed and installed in a manner so that when in use, the switch will immediately shut off the boat's engine or motor if the operator falls overboard or is removed from the normal operating station of the boat.

(3) This subsection does not apply to flat-bottomed boats operated on the tailwaters of a trout fishery nor to flat-bottomed boats operated for duck hunting purposes during duck season.

History. Acts 1959, No. 453, §§ 5, 8; 1961, No. 423, §§ 2, 4; 1965, No. 408, § 1; A.S.A. 1947, §§ 21-225, 21-228, 21-237; Acts 1995, No. 517, §§ 9, 10; 2003, No. 127, § 1; 2005, No. 1297, § 2; 2015, No. 694, § 1; 2019, No. 315, § 3180.

Amendments. The 2019 amendment, in (a)(1)(E), deleted "and regulations" following "rules" twice, and deleted "or regulation" following "rule" in the last sentence.

27-101-205. Collision or accident.

(a) It shall be the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as he or she can do so without serious danger to his or her own vessel, crew, and passengers, if any, to render to other persons affected by the collision, accident, or other casualty assistance that may be practicable and that may be necessary in order to save them from or minimize any danger caused by the collision, accident, or other casualty and also to give his or her name, address, and identification of his or her vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

(b) In the case of collision, accident, or other casualty involving a vessel, if the collision, accident, or other casualty results in death or injury to a person or damage to property in excess of two thousand dollars ($2,000) or the disappearance of a person from a vessel under circumstances that indicate death or injury, the Arkansas State Game and Fish Commission or local sheriff's department having an established water patrol shall be immediately notified in order for an investigation to be conducted. In addition, the operator of the vessel shall submit a United States Department of Homeland Security, United States Coast Guard Form CG-3865 to the Arkansas State Game and Fish Commission Boating Safety Office within ten (10) working days.

(c) A law enforcement officer shall request and a person shall submit to a chemical test of the person's blood, breath, saliva, or urine as required by § 5-65-208, even if the person is fatally injured, for the purpose of determining the alcohol concentration or controlled substance content of his or her blood, breath, saliva, or urine if:

(1) The person is operating a vessel and is involved in a collision, accident, or other casualty resulting in loss of human life or when there is reason to believe death may result; or

(2) The law enforcement officer has reasonable cause to believe that the person was operating a vessel while:

(A) Intoxicated or under the influence of any narcotic drug, barbiturate, or marijuana; or

(B) Under any physical or mental disability so as to be incapable of operating the vessel safely under the prevailing circumstances.

(d) In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the commission pursuant to this section shall be transmitted to that official or agency of the United States.

(e) Any law enforcement agency in the State of Arkansas investigating a boating accident will forward a copy of the completed accident report to the office within thirty (30) days of the accident.

(f)(1) It shall be unlawful for any person involved in a boating accident to purposely leave the scene of the accident without complying with the requirements in subsections (a) and (b) of this section.

(2) Violation of this subsection shall be punishable with a fine of not less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500).

(3) In the event the accident resulted in grave personal injury or death, violations of this section shall be a Class D felony and upon conviction punished accordingly.

History. Acts 1959, No. 453, §§ 10, 11; A.S.A. 1947, §§ 21-230, 21-231; Acts 1995, No. 517, § 12; 2009, No. 693, § 2; 2013, No. 361, § 21; 2015, No. 299, § 36; 2015, No. 694, § 2.

27-101-207. Liability insurance required — Definition.

(a)(1)(A) It shall be unlawful for the owner of a motorboat of more than fifty horsepower (50 hp) or a personal watercraft to allow the operation of the motorboat or personal watercraft unless it is covered by a liability insurance policy that has been issued by an insurance company.

(B) The insurance policy must provide at least fifty thousand dollars ($50,000) of liability coverage per occurrence.

(2) This section does not apply to a motorboat or personal watercraft owned by the United States, a state government, or any political subdivision thereof.

(b)(1)(A) If the motorboat or personal watercraft is involved in an accident, failure to present proof of insurance coverage required by subdivision (a)(1) of this section creates a rebuttable presumption that the motorboat or the personal watercraft is uninsured.

(B)(i) For purposes of this section, "proof of insurance" shall consist of a policy declaration page or other documentation, or a copy of a policy declaration page or other documentation in an acceptable electronic format, that reflects the motorboat or personal watercraft coverage furnished to the insured by the insurance company and can be conveniently carried in the motorboat or personal watercraft.

(ii) Insurance companies shall not be required to provide proof of insurance that may be conveniently carried as required in subdivision (b)(1)(B)(i) of this section if the insurance coverage is provided as part of a homeowner's insurance policy.

(iii) As used in this section, "acceptable electronic format" means an electronic image produced on the person's own cellular phone or other type of portable electronic device that displays all the information in the policy declaration or other documentation as clearly as the paper policy declaration or other documentation.

(iv) The presentment of proof of insurance in an acceptable electronic format does not:

(a) Authorize a search of any other content of an electronic device without a search warrant or probable cause; or

(b) Expand or restrict the authority of a law enforcement officer to conduct a search or investigation.

(2) Upon a showing that liability coverage required by this section was in effect at the time of arrest, the judge may dismiss the charge imposed under this section and the penalties shall not be imposed.

(c)(1) However, if the operator of the motorboat or personal watercraft is involved in an accident on the waters of this state and the motorboat or personal watercraft was not insured as required by this section, the owner of the motorboat or personal watercraft shall be deemed guilty of a Class A misdemeanor.

(2)(A) For a first violation of subsection (a) of this section, the penalty shall be a mandatory fine of not less than fifty dollars ($50.00) nor more than two hundred fifty dollars ($250).

(B) For a second offense, the penalty shall be a fine of not less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500), and the minimum fine shall be mandatory.

(C) For a third or subsequent offense, the penalty shall be a mandatory fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), or a sentence of up to one (1) year in jail, or both.

(d) All fines collected under this section shall be deposited as special revenues into the State Treasury and credited to the Boating Safety Account Fund and then distributed by the Treasurer of State to the Game Protection Fund to be used by the Arkansas State Game and Fish Commission for the purpose of establishing, maintaining, and operating a program of boater training and boater safety throughout the state.

History. Acts 1999, No. 468, § 1; 2001, No. 1704, § 1; 2011, No. 728, §§ 1, 2; 2013, No. 1468, § 1.

Subchapter 3 — Motorboat Registration and Numbering

SECTION.
27-101-302. Exceptions — Dealer's permit.
27-101-303. Establishment of system — Distribution.
27-101-304. Filing of application — Issuance of certificate — Definition.
27-101-305. Display of number.
27-101-306. Numbering period — Expiration — Renewal.
SECTION.
27-101-309. Change of boat ownership.
27-101-310. Destroyed or abandoned boats.
27-101-313. Certificate of number with beneficiary — Definitions.
27-101-314. Obligations of certificate of number holders.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

27-101-302. Exceptions — Dealer's permit.

A motorboat shall not be required to be numbered under this subchapter if it is:

(1) Already covered by a number in full force and effect which has been awarded to it pursuant to federal law or a federally approved numbering system of another state, provided that the boat has not been within this state for more than ninety (90) consecutive days;

(2) A motorboat from a country other than the United States temporarily using the waters of this state;

(3) A motorboat whose owner is the United States, a state, or a subdivision of a state;

(4) A ship's lifeboat;

(5)(A) A motorboat used for demonstration purposes or testing purposes only by a recognized motorboat dealer or manufacturer or agent to promote the sale or development of the motorboat.

(B) All motorboat dealers or manufacturers wishing to obtain the benefits of this subdivision (5) shall obtain a permit from the Revenue Division of the Department of Finance and Administration to operate as a motorboat dealer or manufacturer and for each annual license period shall pay a fee of two dollars ($2.00) for the permit.

(C) The division may issue, subject to the rules of the Arkansas State Game and Fish Commission, to a motorboat dealer or manufacturer an identifying certificate of number and require the attachment or display of the number on both sides of the bow of any motorboat used for demonstration or testing purposes while the motorboat is being operated for demonstration or testing purposes on the waters of this state;

(6) A newly purchased motorboat that is operated for a period not to exceed twenty (20) working days from the date of purchase, provided that the owner or operator of the motorboat has aboard the vessel the bill of sale or acceptable proof of purchase indicating the date of purchase, the name and address of the owner, and description and hull identification number of the vessel; or

(7) A boat that is powered solely by sails.

History. Acts 1959, No. 453, § 6; 1963, No. 140, § 2; A.S.A. 1947, § 21-226; Acts 1995, No. 517, § 13; 2011, No. 900, § 1; 2013, No. 220, § 1; 2021, No. 1057, § 1.

Amendments. The 2021 amendment added (7).

27-101-303. Establishment of system — Distribution.

(a) The Arkansas State Game and Fish Commission shall establish a system of identification numbering for all motorboats used in this state pursuant to this subchapter.

(b) In the event that an agency of the United States Government shall have in force an overall system of identification numbering for motorboats within the United States, the numbering system employed pursuant to this subchapter by the commission shall be in conformity therewith.

(c) The commission shall assign to each county in this state a block of identification numbers for motorboats registered in each county.

(d) The identification numbers shall be assigned to each county in the state, and it shall be the duty of the Secretary of the Department of Finance and Administration to issue the identification numbers to the owners of motorboats in accordance with the provisions of § 27-101-101 et seq., § 27-101-201 et seq., and this subchapter.

History. Acts 1959, No. 453, § 4; 1963, No. 140, §§ 1, 2; A.S.A. 1947, § 21-224; Acts 1987, No. 122, § 2; 2019, No. 910, § 4820.

Amendments. The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (d).

27-101-304. Filing of application — Issuance of certificate — Definition.

(a) The owner of each motorboat for which numbering is required by this state shall file an application for a number within thirty (30) calendar days after the date of purchase with the Secretary of the Department of Finance and Administration on forms approved by the Arkansas State Game and Fish Commission.

(b) The application shall be signed by the owner of the motorboat and accompanied by a fee as provided in § 27-101-306, verification of the hull identification number, proof the motorboat is listed for assessment, proof of payment of required personal property taxes, and proof of insurance establishing that the motorboat, if it is equipped with more than fifty horsepower (50 hp), or a personal watercraft, is covered by a liability insurance policy issued by an insurance company authorized to do business in this state.

(c)(1) On and after January 1, 2017, the Department of Finance and Administration shall not issue, renew, or update ownership information for a certificate of number relating to a motorboat imported or manufactured on or after November 1, 1972, until the department determines whether the motorboat has a primary hull identification number meeting the requirements of 33 C.F.R. Part 181, Subpart C, as in effect on January 1, 2017.

(2) Verification of the hull identification number may include without limitation a submission of a clear and legible photograph or pencil rubbing of the hull identification number.

(d) Upon determination by the department that the motorboat does not have a hull identification number as required by subsection (c) of this section, the department shall refer the owner of the motorboat to the Boating Law Administrator of the Arkansas State Game and Fish Commission to:

(1) Assign a primary hull identification number; and

(2) Verify that the owner permanently affixes the hull identification number to the motorboat in compliance with 33 C.F.R. Part 181, Subpart C, as in effect on January 1, 2017.

(e)(1) The secretary shall enter upon the records of his or her office an application for issuance of a certificate of number upon receipt of:

(A) An application submitted in approved form;

(B) Proof that the motorboat has been assessed or listed for assessment;

(C) Proof that personal property taxes have been paid; and

(D) Proof of coverage by a liability insurance policy issued by an insurance company authorized to do business in this state if the motorboat is equipped with more than fifty horsepower (50 hp) or is a personal watercraft.

(2)(A) Upon approval by the secretary of the application and supporting documents required under subdivision (e)(1) of this section, the secretary shall issue to the applicant a certificate of number stating:

(i) The identifying number assigned to the motorboat;

(ii) The name and address of the owner; and

(iii) A description of the motorboat, including when available the make, model, year, and hull identification number of the motorboat.

(B) The certificate of number shall be of a type that prevents as nearly as possible alteration, counterfeiting, duplication, or simulation without ready detection.

(3)(A) For the purposes of this section, "proof of insurance" shall consist of a policy declaration page or other documentation, or a copy of a policy declaration page or other documentation in an acceptable electronic format, that reflects the motorboat or personal watercraft coverage furnished to the insured by the insurance company which can be conveniently carried in the motorboat or personal watercraft.

(B) Insurance companies shall not be required to provide proof of insurance that may be conveniently carried as required in subdivision (e)(3)(A) of this section if the insurance coverage is provided as part of a homeowner's insurance policy.

(C) As used in this section, "acceptable electronic format" means an electronic image produced on the person's own cellular phone or other type of portable electronic device that displays all of the information in the policy declaration or other documentation as clearly as the paper policy declaration or other documentation.

(D) The presentment of proof of insurance in an acceptable electronic format does not:

(i) Authorize a search of any other content of an electronic device without a search warrant or probable cause; or

(ii) Expand or restrict the authority of a law enforcement officer to conduct a search or investigation.

(f)(1) The certificate of number shall be issued and furnished to the owner of the motorboat and upon receipt the owner shall sign in the signature space provided on the certificate of number.

(2) A copy shall be retained as a record by the secretary.

(3) A copy shall be furnished to the commission to be retained for a period of five (5) years.

(g)(1) The certificate of number shall be pocket-sized and shall be available at all times for inspection on the motorboat for which it is issued whenever the motorboat is in operation.

(2)(A) If a certificate of number is lost, mutilated, or becomes illegible, the owner of the motorboat for which the certificate was issued shall immediately apply for and may obtain a duplicate or a replacement certificate upon the applicant's furnishing information satisfactory to the department.

(B) The application for a duplicate or replacement certificate of number to replace the original certificate of number shall be accompanied by a fee of one dollar ($1.00).

(h) In the event that an agency of the United States Government shall have in force in the United States an overall system of identification numbering for boats covered by this chapter, then the numbering system required by this subchapter and the commission shall be in conformity therewith.

History. Acts 1959, No. 453, § 4; 1963, No. 140, § 1; A.S.A. 1947, § 21-224; Acts 1987, No. 122, § 2; 1987 (1st Ex. Sess.), No. 46, § 1; 1995, No. 517, § 14; 1999, No. 468, § 2; 2001, No. 462, § 3; 2003, No. 220, § 1; 2013, No. 1468, § 2; 2015, No. 694, § 3; 2019, No. 733, §§ 11, 12; 2019, No. 910, §§ 4821-4823.

Amendments. The 2019 amendment by No. 733, in (b), deleted "shall be" preceding "accompanied by", inserted "proof the motorboat is listed for assessment, proof of payment of require personal property taxes", and deleted "by" preceding "proof"; and rewrote (e) and (f).

The 2019 amendment by No. 910 substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (a); and substituted "secretary" for "director" in (e)(1) and (f)(2).

U.S. Code. 33 C.F.R. Part 181, Subpart C, referred to in this section, is codified as 33 C.F.R. § 181.21 et seq.

27-101-305. Display of number.

(a)(1) The owner shall procure and attach to each side of the bow of the motorboat numbers conforming to the certificate of number issued to the owner by the Secretary of the Department of Finance and Administration.

(2) The numbers to be procured and attached shall be at least three inches (3″) in height and of block character, and shall be attached to the forward half of each side of the vessel and clearly visible, pursuant to federal law, and attached in such a manner and position on the boat as may be prescribed by the rules of the Arkansas State Game and Fish Commission in order that they may be clearly visible.

(b) The numbers shall be maintained in legible condition.

(c) No number other than the number awarded to a motorboat or granted reciprocity provided for in § 27-101-302(1) shall be painted, attached, or otherwise displayed on either side of the bow of the motorboat.

History. Acts 1959, No. 453, § 4; 1963, No. 140, § 1; A.S.A. 1947, § 21-224; Acts 1987, No. 122, § 2; 1987 (1st Ex. Sess.), No. 46, § 1; 2019, No. 315, § 3181; 2019, No. 910, § 4824.

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (a)(2).

The 2019 amendment by No. 910 substituted "Secretary of the Department of

Finance and Administration" for "Director of the Department of Finance and Administration" in (a)(1).

27-101-306. Numbering period — Expiration — Renewal.

(a) The certificates of numbers issued pursuant to § 27-101-101 et seq., § 27-101-201 et seq., and this subchapter may be for a period of three (3) years.

(b) The Secretary of the Department of Finance and Administration shall establish a system in a manner that the expiration dates of the various certificates of numbers will be evenly distributed throughout the year and each year thereafter to the end that boat certificates of numbers will be renewable as uniformly as practicable throughout each of the twelve (12) months of the license year in each year.

(c) Upon request, the secretary shall assign to any owner of two (2) or more boats the same registration period.

(d)(1) A fee based on the length of the motorboat as set forth in this subsection shall be charged for the issuance of a certificate of number and for each renewal of each certificate of number.

(2) The fee to be collected for certificates shall be as follows:

Fee Category	3 Years
Vessels less than sixteen feet (16') in length	$ 7.50
Vessels sixteen feet (16') to less than twenty-six feet (26')	15.00
Vessels twenty-six feet (26') to less than forty feet (40')	51.00
Vessels forty feet (40') or more	105.00

(e) Notice shall be given to the Arkansas State Game and Fish Commission of each certificate of number renewed and of the transfer of any certificate of number.

(f) Every certificate of number awarded pursuant to this subchapter shall continue in full force and effect until the expiration of each numbering period unless sooner terminated or discontinued in accordance with the provisions of this subchapter.

(g) Certificates of number may be renewed by the owner in the same manner as is provided in this section for initially securing the certificate and upon:

(1) Payment of all fees required in this chapter;

(2) If applicable, proof the motorboat or personal watercraft is covered by a liability insurance policy issued by an insurance company authorized to do business in this state;

(3) Proof the motorboat is listed for assessment; and

(4) Proof of payment of required personal property taxes.

(h) Unless a certificate of number is renewed on or before the fifteenth day following the expiration thereof, it shall lapse and shall no longer be of any force and effect unless renewed in the manner prescribed in this subchapter.

History. Acts 1959, No. 453, § 4; 1963, No. 140, § 1; 1975, No. 237, §§ 1, 2; A.S.A. 1947, § 21-224; Acts 1987, No. 122, § 2; 1995, No. 517, §§ 15, 16; 1999, No. 468, § 3; 2003, No. 1774, § 9; 2019, No. 733, § 13; 2019, No. 910, § 4825.

Amendments. The 2019 amendment by No. 733 rewrote (g).

The 2019 amendment by No. 910 substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (b); and substituted "secretary" for "director" in (c).

27-101-309. Change of boat ownership.

(a) Should the ownership of a motorboat change, the new owner shall file an application with the Secretary of the Department of Finance and Administration for the transfer of the certificate of operation of the motorboat to the new owner within thirty (30) calendar days after the date of the ownership change.

(b) Upon receipt of the application, the secretary shall cancel the certificate of number issued to the former owner of the motorboat and shall assign the number to the new owner of the motorboat and shall issue a certificate of number to the new owner.

(c) The application procedure and fees under § 27-101-304 shall apply.

History. Acts 1959, No. 453, § 4; 1963, No. 140, § 1; A.S.A. 1947, § 21-224; Acts 1987, No. 122, § 2; 1995, No. 517, § 17; 2001, No. 462, § 4; 2019, No. 733, § 14; 2019, No. 910, § 4826.

Amendments. The 2019 amendment by No. 733 substituted "procedure and fees under § 27-101-304 shall apply" for "for transfer of the certificate of number shall be accompanied by a fee of two dollars ($2.00)" in (c).

The 2019 amendment by No. 910 substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (a); and substituted "secretary" for "director" in (b).

27-101-310. Destroyed or abandoned boats.

(a) Whenever any motorboat numbered under the provisions of this subchapter shall be destroyed or abandoned, its owner shall notify the Secretary of the Department of Finance and Administration within fifteen (15) days after the destruction or abandonment, and the certificate of number of the motorboat shall be terminated.

(b) The secretary shall notify the Arkansas State Game and Fish Commission of the termination of any certificate of number.

History. Acts 1959, No. 453, § 4; 1963, No. 140, § 1; A.S.A. 1947, § 21-224; Acts 1987, No. 122, § 2; 2003, No. 1774, § 10; 2019, No. 910, § 4827.

Amendments. The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (a); and substituted "secretary" for "director" in (b).

27-101-313. Certificate of number with beneficiary — Definitions.

(a) As used in this section:

(1)(A) "Beneficiary" means one (1) individual who is designated to become the owner of a motorboat upon the death of the current owner as indicated on the certificate of number issued under this chapter.

(B) "Beneficiary" does not include a business, firm, partnership, corporation, association, or any other legally-created entity;

(2) "Certificate of number with beneficiary" means a certificate issued for a motorboat under this chapter that indicates the present owner of the motorboat and designates a beneficiary as provided under this section;

(3) "Motorboat" means a boat registered and numbered under this chapter; and

(4)(A) "Owner" means an individual who holds the certificate of number to a motorboat and can include more than one (1) person but not more than three (3) persons.

(B) "Owner" does not include a business, firm, partnership, corporation, association, or any other legally-created entity.

(b) If the owner or joint owners want to transfer a motorboat upon death by operation of law, the owner or joint owners may request that the Revenue Division of the Department of Finance and Administration issue a certificate of number with beneficiary that includes a directive to the division to transfer the certificate of number upon the death of the owner or upon the death of all joint owners to the beneficiary named on the face of the certificate of number with beneficiary.

(c)(1) To obtain a certificate of number with beneficiary, the owner of a motorboat shall submit a transfer on death application to the division to request the issuance of a certificate of number with beneficiary or a change to a certificate of number with beneficiary.

(2) The owner shall provide the following information in the application:

(A) Whether the applicant seeks to add, remove, or change a beneficiary;

(B) The full legal name of the beneficiary;

(C) The Social Security number of the beneficiary;

(D) The address of the beneficiary;

(E) The identification number of the motorboat;

(F) The year, make, model, and length of the motorboat;

(G) The printed full legal name of the owner of the motorboat;

(H) The Arkansas driver's license or identification card number for the owner of the motorboat; and

(I) The signature of the owner of the motorboat.

(3) The owner shall include the following with the application:

(A) The certificate of number for the motorboat issued under this chapter;

(B) The certificate of number application fee as provided under § 27-101-306; and

(C) The certificate of number with beneficiary application fee of ten dollars ($10.00).

(4)(A) The fee remitted under subdivision (c)(3)(C) of this section shall be deposited into the State Central Services Fund for the benefit of the division.

(B) The fee shall be credited as supplemental and in addition to all other funds as may be deposited for the benefit of the division.

(C) The fee shall not be considered or credited to the division as direct revenue.

(d) The division shall not issue a certificate of number with beneficiary to an owner of a motorboat if the owner holds his or her interest in the motorboat as a tenant in common with another person.

(e) The certificate of number with beneficiary issued by the division shall include after the name of the owner the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary.

(f) During the lifetime of the sole owner or before the death of the last surviving joint owner:

(1) The signature or consent of the beneficiary is not required for any transaction relating to the motorboat for which a certificate of number with beneficiary has been issued; and

(2) The certificate of number with beneficiary is revoked by:

(A) Selling the motorboat with completion of the application for transfer of the certificate of number as provided under § 27-101-309 and transferring to another person; or

(B) Filing an application with the division to remove or change a beneficiary as provided under subsection (c) of this section.

(g) Except as provided in subsection (f) of this section, the designation of the beneficiary in a certificate of number with beneficiary shall not be changed or revoked:

(1) By will or any other instrument;

(2) Because of a change in circumstances; or

(3) In any other manner.

(h) The interest of the beneficiary in a motorboat on the death of the sole owner or on the death of the last surviving joint owner is subject to any contract of sale, assignment, or security interest to which the owner of the motorboat was subject during his or her lifetime.

(i)(1)(A) Upon the death of the owner, the division shall issue a new certificate of number for the motorboat to the surviving owner or, if no surviving owners, to the beneficiary if the surviving owner or beneficiary presents the following:

(i) Proof of death of the owner that includes a death certificate issued by the state or a political subdivision of the state;

(ii) Surrender of the outstanding certificate of number with beneficiary; and

(iii) Application and payment of the certificate of number fee for the motorboat.

(B) A certificate of number issued under this subsection will be subject to any existing security interest.

(2) If the surviving owner or beneficiary chooses, he or she can submit a completed certificate of number with beneficiary application

as provided under this section, along with the ten-dollar ($10.00) processing fee, at the time of the application for a new certificate under this subsection.

(j) The transfer of a motorboat upon the death of the owner under this section is not testamentary and is not subject to administration under Title 28.

(k) The procedures and fees under § 27-101-304(g)(2) shall apply for obtaining a duplicate certificate with beneficiary.

(l) The division may promulgate rules for the administration of this section.

History. Acts 2011, No. 335, § 5.

27-101-314. Obligations of certificate of number holders.

(a)(1) Upon receipt of a certificate of number issued under § 27-101-304, the owner of the motorboat shall write his or her signature on the certificate of number in the space provided.

(2)(A) A certificate of number shall be carried:

(i) In the motorboat to which it refers; or

(ii) On the person of the driver or the person in control of the motorboat.

(B) The certificate of number shall be displayed upon request of a law enforcement officer, any officer of the Arkansas State Game and Fish Commission, or any officer or employee of the Office of Motor Vehicle.

(3) A person charged with violating this section shall not be convicted if he or she produces in court a certificate of number for the motorboat that was issued prior to, and in effect at, the time of the arrest.

(b) For purposes of this section, the original or duplicate certificate of number is required and a photocopy of the certificate of number shall not be sufficient.

(c) This section does not apply when a certificate of number is used to apply for renewal of a certificate of number.

History. Acts 2019, No. 733, § 15.

Subchapter 4 — Funds — Marine Sanitation

SECTION.
27-101-405. Marine Sanitation Advisory Committee.
27-101-408. Marine sanitation funds.
27-101-409. Powers and duties of the Marine Sanitation Advisory Committee.
27-101-410. Cooperation with federal agencies.
27-101-413. Department of Health — Powers and duties.
27-101-414. Penalties.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Ar-

kansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

27-101-405. Marine Sanitation Advisory Committee.

(a) There is established a Marine Sanitation Advisory Committee, to consist of seven (7) members appointed by the Governor as follows:

(1) Four (4) members shall be marina operators;

(2) Two (2) members from the state at large to be appointed by the Governor after consulting with the Secretary of the Department of Health and the Director of the Division of Environmental Quality; and

(3) One (1) member shall be a boat owner.

(b)(1) The two (2) members appointed pursuant to subdivision (a)(2) of this section shall serve at the pleasure of the Governor.

(2) Of the initial members appointed under subdivisions (a)(1) and (a)(3) of this section, two (2) shall be appointed for one-year terms, two (2) for two-year terms, and two (2) for three-year terms.

(3) Members shall serve three-year terms except that persons appointed to fill vacancies resulting in an unexpired term shall serve for the remainder of that unexpired term.

(c) Upon recommendation of the advisory committee made after notice and hearing, the Governor may remove any member of the advisory committee for incompetence, neglect of duty, or malfeasance in office.

(d) Any vacancy on the advisory committee shall be filled by the Governor.

(e)(1) The Governor shall call the first advisory committee meeting.

(2)(A) The advisory committee shall elect annually from its membership a chair, a vice chair, and a secretary.

(B) The chair shall not serve more than two (2) consecutive terms as chair.

(3) The advisory committee shall meet as frequently as it deems necessary at such times and places as the advisory committee designates. Additional meetings may be held upon the call of the chair or upon written request of three (3) members of the advisory committee.

(f) Four (4) members of the advisory committee shall constitute a quorum.

(g) The members of the advisory committee shall not be entitled to compensation for their services.

(h) Members appointed under subdivision (a)(2) of this section shall be appointed by the Governor subject to confirmation by the Senate.

History. Acts 1965, No. 147, § 3; A.S.A. 1947, § 21-245; Acts 1999, No. 1101, § 5; 2001, No. 1608, § 2; 2015, No. 1100, §§ 65, 66; 2017, No. 540, § 54; 2019, No. 910, §§ 3263, 5120.

Amendments. The 2017 amendment substituted "seven (7) members" for "thirteen (13) members" in the introductory language of (a) and rewrote the rest of (a); rewrote (b)(1) and (b)(2); substituted "three (3)" for "five (5)" in (e)(3); substituted "Four (4)" for "Seven (7)" in (f); and substituted "(a)(2)" for "(a)(3)" in (h).

The 2019 amendment, in (a)(2), substituted "Secretary of the Department of Health" for "Director of the Department of Health" and "Division of Environmental Quality" for "Arkansas Department of Environmental Quality".

27-101-408. Marine sanitation funds.

(a) All fees and fines levied and collected under the provisions of this subchapter are declared to be special revenues and shall be deposited in the State Treasury to be credited to the Marine Sanitation Fund to be used only for the administration of this subchapter.

(b) Subject to rules that may be implemented by the Chief Fiscal Officer of the State, the disbursing officer for the Department of Health is authorized to transfer all unexpended funds relative to marine toilets and marine sanitation systems that pertain to fees or fines collected, as certified by the Chief Fiscal Officer of the State, to be carried forward and made available for expenditures for the same purpose for any following fiscal year.

History. Acts 1999, No. 1101, § 9; 2003, No. 1774, § 14; 2019, No. 315, § 3182.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (b).

27-101-409. Powers and duties of the Marine Sanitation Advisory Committee.

The Marine Sanitation Advisory Committee may, subject to the availability of funding:

(1) Review all rules and regulations relating to marine toilets, marine sanitation systems, and disposal of marine sewage from boats as necessary to inform marina operators and boat owners of all requirements of state and federal law;

(2) Establish a marine sanitation minigrant program for the purpose of providing grants to marinas to purchase additional marine equipment to assist with the proper disposal of marine sewage; and

(3) Encourage research in regard to technological developments in the discharge of marine sewage.

History. Acts 1999, No. 1101, § 6; 2001, No. 1608, § 4; 2019, No. 315, § 3183.

Amendments. The 2019 amendment inserted "rules and" in (a).

27-101-410. Cooperation with federal agencies.

The Department of Health, the Division of Environmental Quality, and the Arkansas State Game and Fish Commission shall pursue

cooperative agreements with all appropriate federal agencies to ensure the proper disposal of marine sewage in Arkansas.

History. Acts 2001, No. 1608, § 5; 2019, No. 910, § 3264.
Amendments. The 2019 amendment substituted "Division of Environmental Quality" for "Arkansas Department of Environmental Quality".

27-101-413. Department of Health — Powers and duties.

The Department of Health shall:

(1) Administer and enforce all laws, rules, and regulations to the extent permitted by federal law and in accordance with applicable regulations that are adopted by the United States Coast Guard and the United States Environmental Protection Agency and that relate to marine toilet facilities, marine sanitation devices, and unlawful discharge of marine sewage from vessels into waters of this state;

(2) Enter at all reasonable times in or upon any vessel for the purpose of inspecting and investigating conditions relating to marine toilet facilities, marine sanitation devices, and unlawful discharge of marine sewage from vessels into waters of this state;

(3) Adopt rules that are consistent with applicable federal law after consultation with the Marine Sanitation Advisory Committee and that are deemed necessary to carry out the provisions of this subchapter;

(4) Bring any appropriate action in court in the name of the State of Arkansas that is necessary to carry out the provisions of this subchapter; and

(5) Make, issue, modify, and revoke orders prohibiting or abating the unlawful discharge of marine sewage from vessels into waters of this state.

History. Acts 2003, No. 1774, § 15; 2019, No. 315, §§ 3184, 3185.
Amendments. The 2019 amendment inserted "rules" in (1); and substituted "rules" for "regulations" in (3).

27-101-414. Penalties.

(a) Any person who violates any provision of this subchapter or any rule promulgated under this subchapter shall be guilty of a misdemeanor and subject to a fine of not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000) or imprisonment not to exceed three (3) months, or both.

(b)(1) Any person who violates any provision of this subchapter or any rule promulgated under this subchapter may be assessed an administrative civil penalty not to exceed one thousand dollars ($1,000) per violation.

(2) The owner and operator of any vessel shall be jointly and severally liable for the civil penalty imposed under this section.

(c) All fines and penalties imposed and collected under this section shall be deposited in the Marine Sanitation Fund and shall be used to:

(1) Implement, administer, and enforce this subchapter;

(2) Construct, renovate, or operate sewage pumpout and waste reception facilities; and

(3) Conduct education programs to inform vessel owners and operators about the problem of human body waste discharges from vessels and inform them of the locations of sewage pumpout and waste reception facilities.

History. Acts 2003, No. 1774, § 15; 2019, No. 315, §§ 3186, 3187.

Amendments. The 2019 amendment substituted "rule" for "regulation" in (a) and (b)(1).

Subchapter 5 — Boater Safety

SECTION.
27-101-501. Program of boater training and boater safety — Boater education certificate.
27-101-502. Electronic proof of boater education — Definition.

27-101-501. Program of boater training and boater safety — Boater education certificate.

(a) The General Assembly finds and determines that:

(1) The regulation of boating and boaters in the state is the primary responsibility of the Arkansas State Game and Fish Commission under Arkansas Constitution, Amendment 35;

(2) Most boating accidents in the state are due primarily to the lack of training or the improper training of boaters;

(3) The establishment of a boater training and safety program in this state would greatly improve and facilitate boater safety in this state; and

(4) It is the purpose and intent of this section to authorize the commission to establish and operate a boater safety and training program in this state.

(b)(1) The commission is authorized and encouraged to establish, maintain, and operate a program of boater training and boater safety in this state.

(2) The program shall include without limitation:

(A)(i) A course of instruction designed to teach the safe and proper handling of motorboats, personal watercraft, and any other related matters determined appropriate by the commission.

(ii) The course of instruction under subdivision (b)(2)(A)(i) of this section may be administered through an online study course approved by the commission; and

(B)(i) An online or written examination that shows the applicant's ability to have common knowledge to exercise ordinary and reasonable control in the operation of a motorboat and a personal watercraft.

(ii) The examination shall be administered in person at a time and place designated by the commission.

(3) The course of instruction may be offered in cooperation with schools, private clubs, and organizations and may be offered by the commission in areas where requested and where other sponsorship is unavailable.

(4) The commission shall also prepare and disseminate information on water safety to the public, including informational pamphlets, which shall be made available at popular tourist locations.

(c) The commission may adopt and enforce rules and regulations it shall deem appropriate and necessary to properly carry out the purposes and intent of this section.

(d)(1) In order to operate a motorboat or a personal watercraft in Arkansas, a person born on or after January 1, 1986, and of legal age to operate a motorboat or personal watercraft shall have successfully completed a commission-approved safe boating course and examination under subdivision (b)(2) of this section to obtain a boater education certificate.

(2) The commission shall issue boating education certificates and furnish a copy of the state laws pertaining to the operation of a motorboat or personal watercraft or informational material based on these laws to persons successfully completing an approved safe boating course and examination.

(3) Valid boating education certificates issued by other states to nonresidents shall be honored by this state if the boating education course is approved by the National Association of State Boating Law Administrators.

History. Acts 1997, No. 824, § 1; 2009, No. 693, § 2; 2017, No. 1072, §§ 1, 2.

Amendments. The 2017 amendment deleted "Beginning January 1, 2010" at the beginning of (b)(2); rewrote (b)(2)(A)(ii); substituted "An online or written" for "A written" in (b)(2)(B)(i); rewrote (d)(1); deleted former (d)(4) and (d)(5); and made stylistic changes.

27-101-502. Electronic proof of boater education — Definition.

(a) As used in this section, "acceptable electronic format" means an electronic image produced on the person's own cellular phone or other type of portable electronic device that displays all of the information on the boater education certificate as clearly as the paper boater education certificate.

(b) When any law, rule, or regulation of this state requires a person to carry and display upon request a boater education certificate, an electronic copy of the boater education certificate in an acceptable electronic format is sufficient to establish compliance.

(c) The presentment of proof of a boater education certificate in an acceptable electronic format does not:

(1) Authorize a search of any other content of an electronic device without a search warrant or probable cause; or

(2) Expand or restrict the authority of a law enforcement officer to conduct a search or investigation.

History. Acts 2013, No. 436, § 1; 2019, No. 315, § 3188.

Amendments. The 2019 amendment inserted "rule" in (b).

Subchapter 6 — Personal Watercraft

SECTION.
27-101-602. Regulation of personal watercraft.
27-101-604. Regulation of personal watercraft liveries.
SECTION.
27-101-607. Scope.

27-101-602. Regulation of personal watercraft.

(a)(1) No person shall operate a personal watercraft unless each person aboard is wearing a United States Coast Guard-approved personal flotation device to be used in accordance with the label on the personal flotation device.

(2) Provided, no person aboard a personal watercraft shall use an inflatable personal flotation device to meet the personal flotation device requirement of this subsection.

(b) A person operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cutoff switch shall attach such lanyard to his or her person, clothing, or personal flotation device as appropriate for the specific vessel.

(c) No person shall operate a personal watercraft at any time between thirty (30) minutes after sunset and thirty (30) minutes before sunrise.

(d) No person under sixteen (16) years of age shall operate a personal watercraft on the waters of this state, except:

(1) A person at least twelve (12) years of age may operate a personal watercraft if a person at least eighteen (18) years of age is aboard the vessel who:

(A) Was born before January 1, 1986, or has a valid boater education certificate; and

(B) Is in a position to take immediate control of the vessel; or

(2) A person under twelve (12) years of age may operate a personal watercraft if a person at least twenty-one (21) years of age is aboard the vessel who:

(A) Was born before January 1, 1986, or has a valid boater education certificate; and

(B) Is in a position to take immediate control of the vessel.

(e)(1) Every personal watercraft shall at all times be operated in a reasonable and prudent manner. No person shall operate a personal watercraft in an unsafe or reckless manner.

(2) Unsafe personal watercraft operation shall include but not be limited to the following:

(A) Becoming airborne or completely leaving the water while crossing the wake of another vessel within one hundred feet (100') of the vessel creating the wake;

(B) Weaving through congested traffic;

(C) Operating at greater than slow no-wake speed within one hundred feet (100') of an anchored or moored vessel, shoreline, dock, pier, swim float, marked swim area, swimmer, surfer, person engaged in angling, or any manually propelled vessel; and

(D)(i) Operating contrary to the rules of the road or following too close to another vessel, including another personal watercraft.

(ii) For the purposes of this section, following too close shall be construed as proceeding in the same direction and operating at a speed in excess of ten miles per hour (10 m.p.h.) when approaching within one hundred feet (100') to the rear or fifty feet (50') to the side of another motorboat or sailboat which is underway unless such vessel is operating in a channel too narrow to keep the required distance, in which case a personal watercraft may be operated at a speed which is reasonable and prudent for the existing conditions.

(f) No person who owns a personal watercraft or who has charge over or control of a personal watercraft shall authorize or knowingly permit the personal watercraft to be operated in violation of this subchapter.

History. Acts 1999, No. 756, § 2; 2009, No. 693, § 3; 2015, No. 694, § 4.

27-101-604. Regulation of personal watercraft liveries.

(a) A personal watercraft livery shall carry liability insurance in an amount of not less than five hundred thousand dollars ($500,000).

(b) Operators of rental personal watercraft shall be required by livery operators to view a personal watercraft instructional video approved by the Arkansas State Game and Fish Commission Boating Safety Office.

(c) A personal watercraft livery shall provide for the operator of rental personal watercraft in print prior to rental the boating regulations and rules peculiar to the area of rental, including, but not limited to, no-entry zones, no-wake zones, channel routes and water hazards, and tidal flow, where applicable.

(d) A personal watercraft livery shall provide the operators of rental personal watercraft with all equipment required under state law.

(e) A personal watercraft livery may not enter into a lease for rental agreement for a personal watercraft with any person under eighteen (18) years of age.

History. Acts 1999, No. 756, § 5; 2019, No. 315, § 3189.

Amendments. The 2019 amendment inserted "and rules" in (c).

27-101-607. Scope.

The provisions of this subchapter shall be supplemental and in addition to any other laws, rules, or regulations relating to boats or other watercraft.

History. Acts 1999, No. 756, § 6; 2019, No. 315, § 3190.

Amendments. The 2019 amendment inserted "rules" in the text.

Subchapter 8 — Boat Dock and Marina Safety

SECTION.
27-101-801. Title.
27-101-802. Definitions.
27-101-803. Minimum electrical standards.
27-101-804. Signage.
27-101-805. Admissibility in civil matters.

A.C.R.C. Notes. Acts 2011, No. 571, § 1, provided: "The General Assembly finds:

"(1) Arkansas is known for its beautiful and abundant lakes and rivers, which provide a draw for tourism and a boost for our economy;

"(2) Our lakes and rivers should be a safe place for children and families to enjoy;

"(3) There have been cases recently where children have died because the water where they were swimming was electrified by the ungrounded and improper connection of electricity to boat docks and marinas;

"(4) Electricity and water create a deadly combination that can paralyze a swimmer which can result in the swimmer drowning, and children who are swimming are particularly vulnerable to electrocution and shock in the water; and

"(5) Bringing boat docks and marinas up to the National Fire Protection Association Standards for Marinas and Boatyards and the National Electric Code is necessary for the protection and safety of all of those who enjoy our lakes and rivers for recreation and to protect our tourism industry."

27-101-801. Title.

This subchapter shall be known as the "Boat Dock and Marina Safety Law".

History. Acts 2011, No. 571, § 2.

27-101-802. Definitions.

As used in this subchapter:

(1) "Boat dock" means a man-made structure that:

(A) Protrudes into a body of water for the purpose of mooring a boat or for other water-related recreation; and

(B) Is connected to an electric power source in any way; and

(2) "Marina" means a dock or basin that:

(A) Provides moorings for motorboats and offers supply, repair, or other services for remuneration; and

(B) Is connected to an electric power source in any way.

History. Acts 2011, No. 571, § 2.

27-101-803. Minimum electrical standards.

The owner and operator of a boat dock or marina in the state shall install and maintain electrical wiring in accordance with NFPA 303, the National Fire Protection Association Standard for Marinas and Boatyards, and NFPA 70, the National Fire Protection Association National Electrical Code®, to prevent shock, electrocution, or injury to users of the facility and swimmers in the surrounding area.

History. Acts 2011, No. 571, § 2.

27-101-804. Signage.

(a) Each boat dock and marina in the state that is not located on a federal impoundment owned or managed by the United States Army Corps of Engineers shall have signage that warns of electric shock hazards in the waters surrounding the boat dock or marina and the risk of swimming in the area as provided under this section.

(b) The signage under this section shall be placed to give adequate notice to persons using the boat dock or marina or swimming near the boat dock or marina of the electric shock hazard risks of the waters around the boat dock or marina.

(c) The signage shall state:

(1) "ELECTRIC SHOCK HAZARD RISK: SWIM AT YOUR OWN RISK" on one (1) sign; or

(2) "WARNING: ELECTRIC SHOCK HAZARD" on one (1) sign and have another sign attached that states "SWIM AT YOUR OWN RISK".

History. Acts 2011, No. 571, § 2.

27-101-805. Admissibility in civil matters.

The violation of this subchapter is admissible in a civil action against the owner or operator of a boat dock or marina if the violation results in bodily injury to or the death of a person.

History. Acts 2011, No. 571, § 2.

Subchapter 9 — Arkansas Paddlesport Activities Act

SECTION.
27-101-901. Title.
27-101-902. Definitions.
27-101-903. Assumption of risk by participant — Liability of outfitter — Exceptions.
27-101-904. Warning required.

27-101-901. Title.

This subchapter shall be known and may be cited as the "Arkansas Paddlesport Activities Act".

History. Acts 2013, No. 221, § 2.

27-101-902. Definitions.

As used in this subchapter:

(1) "Canoe" means a watercraft that has an open top and is designed to hold one (1) or more participants;

(2) "Canoeing, rafting, kayaking, or tubing" means riding, training, using, paddling, or being a passenger in or on a canoe, kayak, raft, or tube, including a person assisting a participant;

(3) "Equipment" means an accessory to a watercraft that is used for propulsion, safety, comfort, or convenience, including without limitation paddles, oars, and personal flotation devices;

(4) "Inherent risk of paddlesport activity" means the dangers, hazards, or conditions that are an integral part of paddlesport activities in the free-flowing streams or rivers of this state, including without limitation:

(A) A risk typically associated with watercraft, including change in water flow or current, submerged, semisubmerged, and overhanging objects, capsizing, swamping, or sinking of watercraft and resultant injury, hypothermia, or drowning;

(B) Cold weather- or heat-related injuries and illnesses, including hypothermia, frostbite, heat exhaustion, heat stroke, and dehydration;

(C) An act of nature, including without limitation rock fall, inclement weather, thunder and lightning, severe or varied temperature, weather conditions, winds, and tornadoes;

(D) Operator error or equipment failure due to operator error;

(E) Attack or bite by an animal;

(F) The aggravation of an injury or illness because the injury or illness occurred in a remote place where medical facilities are not available; and

(G) Nothing in this subsection is intended to circumvent an outfitter's duty to provide safe equipment and watercraft;

(5) "Kayak" means a watercraft similar to a canoe with a covered top that may have more than one (1) circular opening to hold participants or is designed to permit a participant to sit on top of an enclosed formed seat;

(6) "Outfitter" means an individual, group, club, partnership, corporation, or business entity, whether or not operating for profit, or an employee or authorized agent, which sponsors, organizes, rents, or provides to the public the use of a watercraft by a participant in a free-flowing stream or river in this state;

(7) "Paddlesport activity" means canoeing, rafting, kayaking, or tubing in or on a watercraft as a:

(A) Competition, exercise, or undertaking that involves a watercraft;

(B) Training or teaching activity; or

(C) Ride, trip, tour, or other activity, however informal or impromptu, whether or not a fee is paid, or guided or not, that is sponsored by an outfitter;

(8) "Participant" means a person, whether amateur or professional, whether or not a fee is paid, who rents, leases, or uses watercraft or is a passenger on a rented, leased, or used watercraft participating in a paddlesport activity;

(9) "Raft" means an inflatable watercraft that has an open top and is designed to hold one (1) or more participants;

(10) "Tube" means an inflatable tire inner tube or similar inflatable watercraft that has an open top capable of holding one (1) or more participants; and

(11) "Watercraft" means a canoe, kayak, raft, or tube propelled by the use of paddles, oars, hands, poles, or other nonmechanical or nonmotorized means of propulsion.

History. Acts 2013, No. 221, § 2.

27-101-903. Assumption of risk by participant — Liability of outfitter — Exceptions.

(a) Except as provided in subsection (c) of this section:

(1)(A) A participant assumes the inherent risk of a paddlesport activity by engaging in the paddlesport activity.

(B) A participant or a participant's representative shall not make a claim against, maintain an action against, or recover from an outfitter for the injury, loss, damage, or death of the participant resulting from any of the inherent risk of a paddlesport activity; and

(2) An outfitter is not liable for an injury to or the death of a participant resulting from the inherent risk of paddlesport activities.

(b) This section does not apply to a relationship between an employer and employee under the Workers' Compensation Law, § 11-9-101 et seq.

(c) This section does not prevent or limit the liability of an outfitter or its agent that:

(1) Intentionally injures a participant;

(2) Commits an act or omission of gross negligence concerning the safety of a participant that proximately causes injury, damage, or death to the participant;

(3) Provides unsafe equipment or watercraft to a participant and knew or should have known that the equipment or watercraft was unsafe to the extent that it could cause an injury;

(4) Fails to provide a participant with the equipment required by § 27-101-203(a);

(5) Fails to use that degree of care that an ordinarily careful and prudent person would use under the same or similar circumstances; or

(6) Commits other acts, errors, or omissions that constitute willful or wanton misconduct, gross negligence, or criminal conduct that proximately causes injury, damage, or death.

(d) The limitation of liability provided by this section is in addition to any other limitation of liability provided by law.

History. Acts 2013, No. 221, § 2.

27-101-904. Warning required.

An outfitter shall post and maintain signage in a clearly visible location at or near areas where the outfitter conducts paddlesport activities and in black letters at least one inch (1″) high containing the following warning:

"WARNING — Under Arkansas law, an outfitter is not liable for the injury or death of a participant in a paddlesport activity resulting from the inherent risk of paddlesport activity under the Arkansas Paddlesport Activities Act, Arkansas Code § 27-101-901 et seq. You are assuming the risk of participating in a paddlesport activity."

History. Acts 2013, No. 221, § 2.

Subchapter 10 — Arkansas Motorboat Registration and Titling Act

SECTION.
27-101-1001. Title and purpose.
27-101-1002. Application, exclusions, and limitations.
27-101-1003. Registration and titling requirements generally.
27-101-1004. Application for certificate of title.
27-101-1005. Lost or damaged certificates.
27-101-1006. Grounds for refusing certificate of number or certificate of title.
27-101-1007. Submission and receipt of reports and checking applications against indexes.
27-101-1008. Organization of records.
27-101-1009. Issuance of certificate of title.
27-101-1010. Certificate of title not renewed.
27-101-1011. Expiration of certificate of title.
27-101-1012. Hull identification number verification.
27-101-1013. Certificate of title with beneficiary — Definitions.
27-101-1014. Liens invalid without compliance.
27-101-1015. Instruments and jurisdiction.
27-101-1016. Statement of liens — Issuance.
27-101-1017. Filing as constructive notice.
27-101-1018. Optional means of recording.
27-101-1019. Methods exclusive — Exception.
27-101-1020. Misdemeanor and penalty.
27-101-1021. Obligations of transferee — Definition.
27-101-1022. Transfer by operation of law.
27-101-1023. Assignment without consent of owner.
27-101-1024. Release of lien by lienholder — Disclosure of information — Definition.
27-101-1025. Reregistration and issuance of a new title — Filing.
27-101-1026. Transferor not liable for negligent operation.
27-101-1027. Notice of sale or transfer.
27-101-1028. Time requirements for payment of lien or encumbrance — Definitions.
27-101-1029. Fees.
27-101-1030. Rules.

27-101-1001. Title and purpose.

(a) This subchapter shall be known and may be cited as the "Arkansas Motorboat Registration and Titling Act".

(b) The purpose of this subchapter is to establish the requirements and procedures for registering with a certificate of number and titling motorboats manufactured on and after January 1, 2020.

History. Acts 2019, No. 733, § 16.

27-101-1002. Application, exclusions, and limitations.

(a) Chapters 1-99 of this title do not apply to motorboats registered with a certificate of number and titled under this subtitle.

(b) This subchapter shall apply only to motorboats manufactured on and after January 1, 2020.

(c) Section 27-101-101 et seq., § 27-101-201 et seq., § 27-101-301 et seq., § 27-101-401 et seq., § 27-101-501 et seq., § 27-101-601 et seq., and § 27-101-701 et seq. apply to all motorboats regardless of the date the motorboat was manufactured.

(d)(1) All motorboats, regardless of when the motorboat was manufactured, are subject to the requirements of § 27-101-301 et seq.

(2) However, a motorboat manufactured prior to January 1, 2020, is not eligible for issuance of a certificate of title under this subchapter.

(e) This subchapter shall not apply to:

(1) A motorboat issued a certificate of number under federal law or a federally approved numbering system of another state, provided that the motorboat has not been within this state for more than sixty (60) days;

(2) Motorboats from a country other than the United States temporarily using the waters of this state;

(3) Motorboats whose owner is the United States Government, a state, or a subdivision of a state;

(4) Ship lifeboats; or

(5) Homemade motorboats.

History. Acts 2019, No. 733, § 16.

27-101-1003. Registration and titling requirements generally.

It is a Class A misdemeanor for a person to operate upon the waters of this state a motorboat of a type required to be titled under this subchapter that is not registered with a certificate of number under § 27-101-301 et seq., or for which a certificate of title, if applicable, has not been issued or applied for, or for which all required fees have not been paid when and as required under this chapter.

History. Acts 2019, No. 733, § 16.

27-101-1004. Application for certificate of title.

(a) The owner of a motorboat manufactured on and after January 1, 2020, shall apply to the Office of Motor Vehicle for the issuance of a certificate of title or a certificate of title with beneficiary under § 27-101-1013, for the motorboat upon the appropriate forms furnished by the office.

(b) The application shall contain:

(1) The name, bona fide residence, and mailing address of the owner or business address if the owner is a firm, association, or corporation;

(2)(A) A description of the motorboat, including when available the make, model, year, hull identification number, motor or engine serial number or model number, and a manufacturer's certificate of origin.

(B) The manufacturer's certificate of origin shall be furnished to the dealer by the manufacturer and shall accompany the application for certificate of title.

(C) The manufacturer's certificate of origin shall be on a form prescribed by the Secretary of the Department of Finance and Administration;

(3) A statement concerning all liens or encumbrances upon the motorboat and the names and addresses of all persons having any interest in the motorboat and the nature of the interest; and

(4)(A) Further information as may reasonably be required by the office to determine whether the owner is entitled to a certificate of title.

(B) When the application refers to a motorboat purchased from a dealer, the application shall, if applicable, be accompanied by:

(i) A statement by the dealer or a bill of sale showing any lien retained by the dealer; and

(ii) Payment of applicable lien notation and lien filing fees set forth in § 27-101-1029.

(c) The application shall be accompanied by:

(1) A certificate of title application fee in the amount of eight dollars ($8.00) per motorboat; and

(2) A certificate of title fee in the amount of two dollars ($2.00) per motorboat.

(d)(1) The certificate of title application fee collected under subdivision (c)(1) of this section shall be remitted to the Treasurer of State separate and apart from other taxes and fees.

(2)(A) The Treasurer of State shall deduct a percentage of the gross amount of the certificate of title application fee collected under subdivision (c)(1) of this section for the benefit of the Constitutional Officers Fund and the State Central Services Fund as required in §§ 19-5-202 and 19-5-203.

(B) The net amount remaining after the deduction under subdivision (d)(2)(A) of this section shall be distributed as follows:

(i) Fifty percent (50%) of the net amount shall be deposited as special revenue into the State Treasury and credited to the Commer-

cial Driver License Fund for use by the Revenue Division of the Department of Finance and Administration; and

(ii) Fifty percent (50%) of the net amount shall be deposited into the State Treasury as trust funds and credited to the State Police Retirement Fund to be used for the State Police Retirement System.

(e) A certificate of title shall not be issued under this subchapter absent receipt of the following:

(1) Payment of all applicable fees;

(2) Proof of payment of personal property taxes;

(3) Proof of assessment;

(4) Proof of liability insurance to the extent required in § 27-101-301 et seq.; and

(5) Any other documentation that may be requested by the office.

History. Acts 2019, No. 733, § 16.
Cross References. State Police Retirement Fund, § 24-6-206.

27-101-1005. Lost or damaged certificates.

(a) In the event any certificate of title is lost, mutilated, or becomes illegible, the owner or legal representative or successor in interest of the owner of the motorboat for which it was issued, as shown by the records of the Office of Motor Vehicle, shall immediately make application to the office for and may obtain a duplicate certificate of title if the conditions of this section are satisfied.

(b) The following information shall be included in the application:

(1) The year, make, model, hull identification number, and motor or engine serial number if applicable;

(2) The name of a lienholder;

(3) A release if the applicant claims that the lien has been released; and

(4) Other information required by the office.

(c) In addition to the application referred to in subsection (a) of this section, the following fees are imposed and shall be paid to the office at the time that application for issuance of a duplicate certificate of title is made:

(1) A certificate of title application fee in the amount of eight dollars ($8.00) per motorboat; and

(2) A certificate of title fee of two dollars ($2.00) per motorboat.

(d)(1) The certificate of title application fee collected under subsection (c)(1) of this section shall be remitted to the Treasurer of State separate and apart from other taxes and fees.

(2)(A) A percentage of the gross amount thereof shall be deducted by the Treasurer of State for the benefit of the Constitutional Officers Fund and the State Central Services Fund as required in §§ 19-5-202 and 19-5-203.

(B) The net amount remaining after the deduction under subsection (d)(2)(A) of this section shall be distributed as follows:

(i) Fifty percent (50%) of the net amount shall be deposited as special revenues into the State Treasury and credited to the Commercial Driver License Fund for use by the Revenue Division of the Department of Finance and Administration; and

(ii) Fifty percent (50%) of the net amount shall be deposited into the State Treasury as trust funds and credited to the State Police Retirement Fund to be used for the State Police Retirement System.

(e) The office may issue a duplicate certificate of title without notice to a lienholder if the records of the office do not show that a lien exists against the motorboat.

(f)(1)(A) The office shall mail notice to a lienholder shown in the records of the office at the address shown in the records for the lienholder.

(B) The notice shall state that the lienholder must respond to the office within ten (10) business days from the date of the notice if the lien has not been released, or the duplicate certificate of title will be issued without recording the lien.

(2)(A) At the earlier of the time the lienholder responds indicating that the lien has been released or the expiration of the time for response by the lienholder, the office may issue a duplicate certificate of title without recording the name of the lienholder.

(B) If the lienholder timely responds indicating that the lien has not been released, the office may issue a duplicate certificate of title that places the name of the lienholder on the duplicate certificate title upon payment of all required lien notation and filing fees.

(g) Upon issuance of any duplicate certificate of title, the previous certificate of title shall be void.

History. Acts 2019, No. 733, § 16.

27-101-1006. Grounds for refusing certificate of number or certificate of title.

A certificate of number or transfer of a certificate of number shall not be issued under § 27-101-301 et seq., nor shall a certificate of title be issued under this subchapter, if:

(1) The Office of Motor Vehicle has been provided with information leading the office to reasonably believe that the relevant application contains any false or fraudulent statement;

(2) The applicant fails to furnish required information or reasonable additional information requested by the office;

(3) The office has reasonable grounds to believe that the motorboat is stolen or embezzled or that the granting of a certificate of number, the issuance of a certificate of title, or the transfer of a certificate of number would constitute a fraud against the rightful owner or other person having a valid lien upon the motorboat; or

(4) All the required fees have not been paid.

History. Acts 2019, No. 733, § 16.

27-101-1007. Submission and receipt of reports and checking applications against indexes.

(a) The owner of or person having a lien or encumbrance upon a motorboat that has been stolen or embezzled may notify the Office of Motor Vehicle of the theft or embezzlement, but in the event of an embezzlement, may make a report only after having procured the issuance of a warrant for the arrest of the person charged with the embezzlement.

(b) Every owner or other person who has given any such notice shall notify the office of a recovery of the motorboat.

(c) The office upon receiving a report of a stolen or embezzled motorboat as provided in subsection (a) of this section shall file and appropriately index the report, shall immediately suspend the certificate of number or title of the stolen or embezzled motorboat, and shall not transfer the certificate of number or certificate of title of the stolen or embezzled motorboat until such time as the office is notified in writing that the stolen or embezzled motorboat has been recovered.

(d)(1) The office shall, at least one (1) time each week, compile and maintain a list of all motorboats that have been stolen, embezzled, or recovered as reported to the office during the preceding week.

(2) The lists shall be open to inspection by any law enforcement officer or other person interested in the motorboat.

(e) The office, upon receiving application for the certificate of number of a motorboat under § 27-101-301 et seq. or application for a certificate of title under this subchapter, shall first check the hull identification number or other identifying number shown in the application against the indexes of registered motorboats and against the index of stolen and recovered motorboats required by this section to be maintained.

History. Acts 2019, No. 733, § 16.

27-101-1008. Organization of records.

The Office of Motor Vehicle shall file each application received and issue a certificate of title if all the requirements are properly satisfied and shall register the motorboat with a certificate of number and keep a record of the application by suitable methods ensuring the records will be available as follows:

(1) Under a distinctive certificate of number assigned to the motorboat;

(2) Alphabetically, under the name of the owner;

(3) Under the hull identification number, if available, otherwise any other identifying number of the motorboat; and

(4) In any other manner to be decided at the discretion of the office.

History. Acts 2019, No. 733, § 16.

27-101-1009. Issuance of certificate of title.

(a)(1) The Office of Motor Vehicle, upon registering a motorboat with a certificate of number under § 27-101-304 and upon receipt of a proper application and all required fees, shall issue a certificate of title.

(2) The certificate of title shall be of a type that, as nearly as possible, prevents the document from being altered, counterfeited, duplicated, or simulated without ready detection.

(b)(1)(A) The certificate of title shall contain upon its face the identical information required upon the face of the certificate of number.

(B) In addition, the certificate of title shall contain:

(i) A statement of the owner's title to the motorboat;

(ii) A statement of all liens and encumbrances on the motorboat described in the application for the certificate of title;

(iii) A statement as to whether possession of the motorboat is held by the owner under a lease, contract of conditional sale, or other similar agreement; and

(iv) If a certificate of title is issued as a certificate of title with beneficiary, the information required under § 27-101-1013.

(2) The certificate of title shall bear the seal of the office.

(c)(1) The certificate of title shall contain upon the front side a space for the signature of the owner, and the owner shall write his or her name with pen and ink in the space upon receipt of the certificate of title, except when a surviving owner or a beneficiary applies for a new certificate of title with beneficiary under § 27-101-1013.

(2) The certificate of title shall also contain upon the reverse side forms for assignment of title or interest and warranty of title or interest by the owner, with space for notation of liens and encumbrances upon the motorboat at the time of a transfer.

(d)(1) The certificate of title shall be delivered to the owner in the event no lien or encumbrance appears thereon.

(2) Otherwise, the certificate of title shall be delivered either to the person holding the first lien or encumbrance upon the motorboat as shown in the certificate of title or to the person named to receive it in the application for the certificate of title.

History. Acts 2019, No. 733, § 16.

27-101-1010. Certificate of title not renewed.

A certificate of title shall remain valid until cancellation by the Office of Motor Vehicle for cause or when a transfer in interest of the motorboat occurs.

History. Acts 2019, No. 733, § 16.

27-101-1011. Expiration of certificate of title.

(a)(1) A certificate of title issued under this subchapter shall expire upon the determination by the Office of Motor Vehicle that the hull identification number on the motorboat is mutilated, destroyed, or obliterated.

(2) Upon expiration of a certificate of title under subdivision (a)(1) of this section, the office shall refer the owner of the motorboat to the Boating Law Administrator of the Arkansas State Game and Fish Commission to:

(A) Issue a primary hull identification number to the motorboat; and

(B) Verify that the owner of the motorboat permanently affixes the hull identification number to the motorboat in compliance with 33 C.F.R. Part 181, Subpart C, as in effect on January 1, 2017.

(b) After receipt of a proper application and payment of all required fees under this subchapter, the office shall issue a new certificate of title using the primary hull identification number issued as provided under subsection (a) of this section.

History. Acts 2019, No. 733, § 16.

27-101-1012. Hull identification number verification.

(a)(1) The Department of Finance and Administration shall not issue, renew, or update ownership information for a certificate of number under § 27-101-304 or a certificate of title under this subchapter until the department determines whether the motorboat has a primary hull identification number meeting the requirements of 33 C.F.R. Part 181, Subpart C, as in effect on January 1, 2017.

(2) Verification of the hull identification number may include without limitation a submission of a clear and legible photograph or pencil rubbing of the hull identification number.

(b) Upon determination by the department that the motorboat does not have a hull identification number as required by subsection (a) of this section, the department shall refer the owner of the motorboat to the Boating Law Administrator of the Arkansas State Game and Fish Commission to:

(1) Assign a primary hull identification number; and

(2) Verify that the owner permanently affixes the hull identification number to the motorboat in compliance with 33 C.F.R. Part 181, Subpart C, as in effect on January 1, 2017.

History. Acts 2019, No. 733, § 16.

27-101-1013. Certificate of title with beneficiary — Definitions.

(a) As used in this section:

(1)(A) "Beneficiary" means one (1) person designated to become the owner of a motorboat upon the death of the current owner as indicated on the certificate of title issued under this chapter.

(B) "Beneficiary" does not include a business, firm, partnership, corporation, association, or any other legally created entity;

(2) "Certificate of title with beneficiary" means a certificate of title for a motorboat issued under this subchapter that indicates the present owner of the motorboat and designates a beneficiary as provided under this section; and

(3)(A) "Owner" means a person who holds legal title to a motorboat and may include more than one (1) person but not more than three (3) people.

(B) "Owner" does not include a business, firm, partnership, corporation, association, or any other legally created entity.

(b)(1) The owner or joint owners of a motorboat may submit a transfer-on-death application to the Office of Motor Vehicle to request the issuance of a certificate of title with beneficiary or a change to a certificate of title with beneficiary which directs the office to transfer the certificate of title upon the death of the owner or upon the death of all joint owners to the beneficiary named on the certificate of title with beneficiary.

(2) A transfer-on-death application shall contain:

(A) A statement as to whether the applicant seeks to add, remove, or change a beneficiary;

(B) The full legal name of the beneficiary;

(C) The Social Security number of the beneficiary;

(D) The address of the beneficiary;

(E) The hull identification number of the motorboat and, where applicable, the engine or motor serial number;

(F) The year, make, model, and body type of the motorboat;

(G) The printed full legal name of the owner of the motorboat;

(H) The driver's license or identification card number for the owner of the motorboat; and

(I) The signature of the owner of the motorboat.

(3) The applicant shall include the following with the transfer-on-death application:

(A) The certificate of title for the motorboat issued under this chapter;

(B) A certificate of title fee in the amount of two dollars ($2.00);

(C) The certificate of title application fee in the amount of eight dollars ($8.00); and

(D) The certificate of title with beneficiary processing fee in the amount of ten dollars ($10.00).

(4) The proceeds collected under subdivision (b)(3)(C) of this section shall be distributed as set out in § 27-101-1004(d).

(5)(A) The certificate of title with beneficiary processing fee remitted under subdivision (b)(3)(D) of this section shall be deposited into the State Central Services Fund for the benefit of the Revenue Division of the Department of Finance and Administration.

(B) The fee shall be credited as supplemental and in addition to all other funds as may be deposited for the benefit of the division.

(C) The fee shall not be considered or credited to the office as direct revenue.

(c)(1) The office shall not issue a certificate of title with beneficiary to an owner of a motorboat if:

(A) The motorboat is encumbered by a lien; or

(B) The owner holds his or her interest in the motorboat as a tenant in common with another person.

(2) If a lien request is made for a certificate of title with beneficiary, the beneficiary shall be removed and the lien added upon payment of all fees required under this chapter.

(d) The certificate of title with beneficiary issued by the office shall include after the name of the owner the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary.

(e) During the lifetime of the owner or before the death of the last surviving joint owner:

(1) The signature or consent of the beneficiary is not required for any transaction relating to the motorboat for which a certificate of title with beneficiary has been issued; and

(2) The certificate of title with beneficiary is revoked by:

(A) Selling the motorboat with proper assignment and delivery of the certificate of title to another person; or

(B) Filing an application with the office to remove or change a beneficiary as provided under subsection (b) of this section.

(f) Except as provided in subsection (e) of this section, the designation of the beneficiary in a certificate of title with beneficiary shall not be changed or revoked absent receipt of a court order requiring a change in the designation of beneficiary.

(g) The interest of the beneficiary in a motorboat on the death of the owner or on the death of the last surviving joint owner is subject to any contract of sale, assignment, or security interest to which the owner of the motorboat was subject to during his or her lifetime.

(h)(1)(A) Upon the death of the owner, the office shall issue a new certificate of title for the motorboat to the surviving owner or, if there is no surviving owner, to the beneficiary if the surviving owner or beneficiary presents the following:

(i) Proof of death of the owner that includes a death certificate issued by the state or a political subdivision of the state;

(ii) Surrender of the outstanding certificate of title with beneficiary; and

(iii) An application and payment of all fees required under this chapter.

(B) A certificate of title issued under this subsection is subject to any existing security interest.

(2) If the surviving owner or beneficiary chooses, he or she can submit a completed certificate of title with beneficiary application as provided under this section, which shall be accompanied by all required fees, at the time of the application for a new certificate of title.

(3)(A) The transfer under this subsection is a transfer by operation of law, and § 27-101-1022 applies to the extent practicable and not in conflict with this section.

(B) The transfer of a motorboat upon the death of the owner under this section is not testamentary and is not subject to administration under the Probate Code.

(i) The procedures and fees under §§ 27-101-1004 and 27-101-1029 shall apply for obtaining a duplicate certificate of title with beneficiary.

History. Acts 2019, No. 733, § 16.

27-101-1014. Liens invalid without compliance.

A conditional sale contract, conditional lease, chattel mortgage, or other lien or encumbrance, or title retention instrument upon a motorboat, other than a lien dependent upon possession, is not valid against the creditors of an owner acquiring a lien by levy or attachment or subsequent purchasers or encumbrances, with or without notice, until the requirements of this subchapter have been satisfied.

History. Acts 2019, No. 733, § 16.

27-101-1015. Instruments and jurisdiction.

(a) There shall be deposited with the Office of Motor Vehicle a copy of the instrument creating and evidencing a lien or encumbrance, which is to be executed in the manner required by the laws of this state and accompanied by the certificate of title last issued for the motorboat.

(b) If a motorboat is subject to a security interest when brought into this state, the validity of the security interest is determined by the law of the jurisdiction where the motorboat was when the security interest attached, subject to the following:

(1) If at the time the security interest attaches the parties understand that the motorboat will be kept in this state and the motorboat is in this state within thirty (30) days after attachment for purposes other than transportation through this state, the validity of the security interest in this state is determined by the law of this state;

(2) If a security interest is perfected under the law of the jurisdiction where the security interest attached, the following rules apply:

(A) If the name of the lienholder is shown on an existing certificate of title issued by that jurisdiction, the lienholder's security interest continues perfected in this state; or

(B)(i) If the name of the lienholder is not shown on an existing certificate of title issued by that jurisdiction, the security interest continues perfected in this state for four (4) months after a first certificate of title of the motorboat is issued in this state and also thereafter if, within the four-month period, it is perfected in this state.

(ii) Perfection dates from the time of perfection in this state if the security interest is perfected in this state after the expiration of the four-month period;

(3) If the security interest is not perfected under the law of the jurisdiction where the security interest attached, the security interest may be perfected in this state, and perfection dates from the time of perfection in this state; or

(4) A security interest may be perfected either under subdivision (b)(2)(B) or subdivision (b)(3) of this section as provided in subsection (a) of this section.

(c) If the motorboat is not registered with a certificate of number and a certificate of title has not been issued for the motorboat, the certified copy of the instrument creating the lien or encumbrance shall be accompanied by an application by the owner in usual form for an original registration and issuance of an original certificate of title and any fees as required under this chapter.

History. Acts 2019, No. 733, § 16.

27-101-1016. Statement of liens — Issuance.

Upon receipt of an application for a certificate of title accompanied by the documents and fees required under this subchapter, the Office of Motor Vehicle shall:

(1) File the application and documents with the date and hour the application and documents were received noted on the application; and

(2) If the application requirements are properly satisfied, issue a new certificate of title in the name of the owner and a statement of all liens or encumbrances certified to the office existing against the motorboat.

History. Acts 2019, No. 733, § 16.

27-101-1017. Filing as constructive notice.

(a) The filing and issuance of a new certificate of title as provided in this chapter shall constitute constructive notice of all liens and encumbrances against the motorboat described in the certificate of title to creditors of the owner, subsequent purchasers, and encumbrancers, except those liens as may be authorized by law dependent upon possession.

(b)(1) A lien is perfected on the date of execution if the documents required under § 27-101-1015 are filed with the Office of Motor Vehicle within thirty (30) days from the date of execution.

(2) Otherwise, constructive notice shall date from the time of receipt and filing of the documents by the office noted on the application as required under § 27-101-1016.

History. Acts 2019, No. 733, § 16.

27-101-1018. Optional means of recording.

(a)(1) At his or her option, a lienholder may:

(A) Record the lien on the manufacturer's certificate of origin;

(B) Record the lien on an existing certificate of title; or

(C) File with the Revenue Division of the Department of Finance and Administration a certified copy of the instrument creating and evidencing the lien or encumbrance.

(2) The lienholder shall remit a fee in the amount of one dollar ($1.00) for each lien filed.

(3) The recording or filing shall constitute constructive notice of the lien against the motorboat described therein to creditors of the owner, subsequent purchasers, and encumbrancers, except those liens that are by law dependent upon possession.

(4) A photocopy of the manufacturer's certificate of origin or of an existing certificate of title, showing the lien recorded thereon and certified as a true and correct copy by the party recording the lien, shall be sufficient evidence of the recording.

(b)(1)(A) The lien shall be deemed perfected and the constructive notice shall be effective from the date of the execution of the instrument creating and evidencing the lien or encumbrance if it is filed as authorized in this section within thirty (30) days after the date of the execution thereof.

(B) If the instrument is filed more than thirty (30) days after the date of the execution thereof, the lien shall be deemed perfected and the constructive notice shall date from the time of the filing of the instrument.

(2) However, the filing of a lien under this section by the lienholder and the payment of the required fee shall in no way relieve any person of the obligation of paying the fee required by law for filing a lien to be evidenced on a certificate of title of a motorboat.

History. Acts 2019, No. 733, § 16.

27-101-1019. Methods exclusive — Exception.

(a) The methods provided in this subchapter of giving constructive notice of a lien or encumbrance upon a motorboat shall be exclusive except as to liens dependent upon possession.

(b) Any lien, or encumbrance, or title retention instrument filed as provided in this subchapter, and any documents evidencing them, are exempted from the provisions of law which otherwise require or relate to the recording or filing of instruments creating or evidencing title retention or other liens or encumbrances upon motorboats.

History. Acts 2019, No. 733, § 16.

27-101-1020. Misdemeanor and penalty.

(a) It is a Class C misdemeanor for any person to fail or neglect to enter the transferee's name on a properly endorsed certificate of title or fail or neglect to properly endorse and deliver a certificate of title to a transferee or owner lawfully entitled to the certificate of title.

(b) A person found to be in possession of a motorboat with an improperly assigned certificate of title that fails to identify the transferee shall immediately establish ownership of the motorboat, register the motorboat with a certificate of number, and pay all required fees and penalties.

History. Acts 2019, No. 733, § 16.

27-101-1021. Obligations of transferee — Definition.

(a)(1) The transferee of a motorboat shall apply for, or cause to be applied for, a registration with a certificate of number under § 27-101-304 and the issuance of a certificate of title under this subchapter within thirty (30) days after the date of the release of lien by a prior lienholder, as provided in § 27-101-1024, or thirty (30) days after the date of the transfer if no lien exists.

(2) A motorboat shall not be operated upon the waters of this state for more than thirty (30) days after the release of lien by a prior lienholder as provided in § 27-101-1024, or thirty (30) days after the transfer date if no lien exists, unless a valid registration with a certificate of number and certificate of title have been issued under this chapter.

(b) A transferee shall at the same time present the certificate of title, properly endorsed and assigned, to the Office of Motor Vehicle and apply for and obtain a new certificate of title for the motorboat, except as otherwise provided in § 27-101-1022.

(c)(1)(A) It is unlawful for a dealer or other person who sells or finances the purchase of a motorboat subject to registration with a certificate of number in this state to use a title retention note to secure his or her interest in the motorboat.

(B) As used in this section, a "title retention note" means any instrument that grants the purchaser the right to possession and use of the motorboat, but withholds assignment of ownership on the existing certificate of title and its delivery to the purchaser, until full payment has been made by the purchaser, which makes it impossible for the purchaser to comply with subsection (b) of this section.

(2) It shall be a Class C misdemeanor for a motorboat dealer or other seller to fail to comply with this subsection.

(d) This section is not intended to limit the rights of a lienholder to perfect or record his or her security interest in a motorboat as provided under §§ 27-101-1014 and 27-101-1019.

History. Acts 2019, No. 733, § 16.

27-101-1022. Transfer by operation of law.

(a) Whenever the certificate of title or interest of an owner in or to a registered motorboat is transferred to another person by a method other than voluntary transfer, the registration and certificate of title of the motorboat shall expire, and the motorboat shall not be operated upon the waterways of this state for more than thirty (30) days after the date of transfer.

(b)(1) Upon transfer, the new owner shall secure a new registration with a certificate of number under § 27-101-304 and a new certificate of title under this subchapter, if the new owner submits to the Office of Motor Vehicle:

(A) The application and documents required to be submitted with the application;

(B) Payment of all required fees;

(C) Presentation and surrender of the last certificate of title;

(D) Evidence that the lien or encumbrance was previously recorded in this state; and

(E) The instruments or documents of authority, or certified copies of the instruments or documents of authority, as may be sufficient or required by law to evidence or effect a transfer of certificate of title or interest in or to chattels in this case.

(2)(A) If the motorboat to be registered with a certificate of number and titled was previously registered with a certificate of number in a jurisdiction other than Arkansas and if the name of the new owner as lienholder is not shown on the existing certificate of title, a certificate of title shall not be issued to the new owner under this section.

(B) Instead, the new owner may secure a new registration and certificate of title by obtaining an order issued by a court of competent jurisdiction directing issuance of the new registration with certificate of number and certificate of title.

(3) The new owner, upon transferring his or her certificate of title or interest to another person, shall execute and acknowledge an assignment and warranty of title upon the certificate of title previously issued, if available, and deliver it, as well as the documents of authority or certified copies of the documents of authority, as may be sufficient or required by law to evidence the rights of the person, to the person to whom the transfer is made.

History. Acts 2019, No. 733, § 16.

27-101-1023. Assignment without consent of owner.

(a) A person holding a lien or encumbrance upon a motorboat, other than a lien dependent solely upon possession, may assign his or her certificate of title or interest in or to the motorboat to a person other than the owner without the consent of the owner, and without affecting the interest of the owner or the registration with certificate of number

of the motorboat, but in this event, he or she shall give to the owner a written notice of the assignment.

(b) The Office of Motor Vehicle, upon receiving a certificate of title, along with all required fees, assigned by the holder of a lien or encumbrance shown thereon and giving the name and address of the assignee, shall issue a new certificate of title as upon an original application.

History. Acts 2019, No. 733, § 16.

27-101-1024. Release of lien by lienholder — Disclosure of information — Definition.

(a) As used in this section, "final payment" means an item is paid when a payee bank or person has:

(1) Paid for the item in cash;

(2) Settled for the item without having a right to revoke the settlement under statute, clearinghouse rule, or agreement; or

(3) Made a provisional settlement for the item and failed to revoke the settlement in the time and manner permitted by statute, clearinghouse rule, or agreement.

(b) For purposes of this section, a lien or encumbrance is satisfied when the lienholder receives final payment.

(c)(1) Upon the satisfaction of any lien or encumbrance on a motorboat for which the certificate of title is in the possession of the lienholder, the lienholder shall within ten (10) business days from the date of receipt of final payment execute a release of the lien or encumbrance in the space provided in the certificate of title, or as the Office of Motor Vehicle prescribes, and mail or deliver the certificate of title and the release of lien or encumbrance to the next lienholder named in the certificate of title or, if none, to the owner or to any person who delivers to the lienholder an authorization from the owner to receive the certificate of title.

(2) Upon the satisfaction of a lien or encumbrance on a motorboat for which the certificate of title is in the possession of a prior lienholder, the lienholder whose lien or encumbrance is paid in full shall within ten (10) business days of receipt of final payment execute a release of lien or encumbrance in the form the office prescribes and deliver the release of lien or encumbrance to the owner or to any person who delivers to the lienholder an authorization from the owner to receive it.

(d) A lienholder named in a certificate of title shall upon written request of the owner or of another lienholder named on the certificate of title disclose any pertinent information as to his or her security agreement and the indebtedness secured.

(e)(1) A lienholder who fails to comply with subsection (c) of this section shall pay to the person or persons satisfying the lien or encumbrance twenty-five dollars ($25.00) for the first five (5) business days after expiration of the time period prescribed in subsection (c) of this section, and the payment shall double for each five (5) days

thereafter in which there is continued noncompliance, up to a maximum of five hundred dollars ($500) for each lien.

(2) If delivery of the certificate of title is by mail, the delivery date is the date of the postmark for purposes of this subsection.

History. Acts 2019, No. 733, § 16.

27-101-1025. Reregistration and issuance of a new title — Filing.

(a) When satisfied as to the genuineness and regularity of the transfer of a motorboat and of the right of the transferee to receive a new registration and certificate of title under this chapter, the Office of Motor Vehicle shall reregister the motorboat under § 27-101-304 and issue a new certificate of title under this subchapter as upon an original application.

(b) The request for reregistration and issuance of a new certificate of title shall be accompanied by:

(1) A properly endorsed certificate of title;

(2) A completed application for registration and certificate of title as required in this chapter;

(3) If applicable, proof the motorboat or personal watercraft is covered by a liability insurance policy issued by an insurance company authorized to do business in this state;

(4) Payment of all required fees; and

(5) Any other documents that may be required by the office.

(c) The office shall:

(1) Retain and appropriately file every surrendered certificate of title; and

(2) Maintain the file required under subdivision (c)(1) of this section to permit the tracing of the certificate of title.

History. Acts 2019, No. 733, § 16.

27-101-1026. Transferor not liable for negligent operation.

(a) The owner of a motorboat who has made a bona fide sale or transfer of his or her certificate of title or interest and who has delivered possession of the motorboat to the purchaser or transferee is not liable for any damages resulting from negligent operation of the motorboat by another person.

(b) The selling or transferring owner, upon delivery of possession of the motorboat, is not liable for any damage or negligence if the selling or transferring owner:

(1) Delivers the certificate of title, properly endorsed and dated with the date of the endorsement, to the purchaser or transferee;

(2) Delivers to the Office of Motor Vehicle or placed in the United States mail, addressed to the office, the notice as provided in § 27-101-1027; or

(3) Delivers to the office or places in the United States mail, addressed to the office, the appropriate documents and fees for registration of the motorboat to the new owner under the sale or transfer.

History. Acts 2019, No. 733, § 16.

27-101-1027. Notice of sale or transfer.

(a) Whenever the owner of a motorboat registered with a certificate of number under this chapter sells or transfers the certificate of title or interest in and delivers possession of the motorboat to another person, the owner may notify the Office of Motor Vehicle of the sale or transfer.

(b) The notice shall provide the following information:

(1) The date of the sale or transfer;

(2) The name and address of the owner and of the transferee;

(3) The hull identification number;

(4) The identifying number assigned to the motorboat under § 27-101-301 et seq.;

(5) A description of the motorboat; and

(6) Any other information that may be required by the office.

History. Acts 2019, No. 733, § 16.

27-101-1028. Time requirements for payment of lien or encumbrance — Definitions.

(a) As used in this section:

(1) "Customer" means a person who trades in or otherwise provides a motorboat to a motorboat dealer for resale;

(2) "Motorboat dealer" means a recognized motorboat dealer; and

(3) "Subsequent purchaser" means a person who buys the motorboat that was provided to the motorboat dealer as a trade-in or for resale by the customer.

(b)(1) If a motorboat dealer takes possession of a motorboat for purposes of resale and there is an outstanding lien or encumbrance on the motorboat, the motorboat dealer shall in good faith tender full payment on the outstanding lien or encumbrance within ten (10) business days after the motorboat dealer takes possession of the motorboat from the customer.

(2) This time period may be shortened if the customer and the motorboat dealer agree to a shorter time period.

(c)(1) If the motorboat dealer fails to act in good faith in tendering full payment for the outstanding lien or encumbrance within ten (10) business days or within the time period agreed to by the motorboat dealer and the customer under subdivision (b)(2) of this section, the customer shall have an absolute right to cancel the contract for sale between the customer and the motorboat dealer.

(2) If the contract for sale is canceled under subdivision (c)(1) of this section, the motorboat dealer shall be responsible for late fees, finance

charges, or any financial penalty that is required to be made by the customer as part of the existing lien or encumbrance.

(d)(1) If the motorboat dealer sells the motorboat to a subsequent purchaser without first tendering full payment for the outstanding lien or encumbrance, the subsequent purchaser who buys the motorboat subject to the existing lien or encumbrance shall have an absolute right to cancel the contract for sale between the subsequent purchaser and the motorboat dealer.

(2) If the contract for sale is canceled under subdivision (d)(1) of this section, the motorboat dealer shall be responsible for late fees, finance charges, or any financial penalty that is required to be made by the subsequent purchaser as part of the existing lien or encumbrance.

History. Acts 2019, No. 733, § 16.

27-101-1029. Fees.

(a) Except as otherwise provided, all fees required under this chapter shall be paid to the Office of Motor Vehicle.

(b) The following fees are charged under this subchapter by the Secretary of the Department of Finance an Administration:

(1) Certificate of title with beneficiary processing fee..... $10.00
(2) Duplicate title fee 2.00
(3) Lien filing fee 1.00
(4) Lien notation fee..... .50
(5) Title application fee..... 8.00
(6) Hull identification fee..... 25.00

History. Acts 2019, No. 733, § 16.

27-101-1030. Rules.

The Secretary of the Department of Finance and Administration may promulgate rules for the administration of this subchapter.

History. Acts 2019, No. 733, § 16.

SUBTITLE 8. AERONAUTICS

CHAPTER 114

GENERAL PROVISIONS

SECTION.
27-114-101. Definitions.
27-114-103. Evidence — License number or identification mark.

27-114-101. Definitions.

As used in this subtitle, unless the context otherwise requires:

(1) "Aeronautics" means the act or practice of the art and science of transportation by aircraft and operation, construction, repair, or maintenance of aircraft, airports, landing fields, or air navigation facilities, and including repairs, packing, and maintenance of parachutes;

(2) "Air navigation facilities" shall include airports, landing fields, and water surfaces for landing aircraft and all aids to air navigation, including, but not confined to, lights, marks, structures, and electrical communicating systems;

(3) "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment;

(4) "Airman" means an individual, including the person in command and any pilot, mechanic, or member of the crew who engages in the operation of aircraft while under way, any individual in charge of the inspecting, overhauling, or repairing of aircraft, or parachute riggers and repairmen;

(5) "Airport" means any locality, either of water or land, which is adapted for the landing and taking off of aircraft and which provides facilities for shelter, supply, and repair of aircraft or a place used regularly for receiving or discharging passengers or cargo by air;

(6) "Civil aircraft" means aircraft not of the military or naval forces of the United States Government and aircraft not used exclusively in any governmental service of any state or country;

(7) "Civil airway" means a route in the navigable air space over or above the territory or waters of the state designated by the division as a route suitable for intrastate or interstate air commerce;

(8) "Division" means the Division of Aeronautics;

(9) "Intermediate landing field" means any locality, either of water or land, which is adapted for the landing and taking off of aircraft, is located along any airway, and is intermediate to airports and landing fields connected by the airway but which is not equipped with facilities for shelter, supply, and repair of aircraft and is not used regularly for the receiving or discharging of passengers or cargo by air;

(10) "Landing field" means any locality, either of water or land, which is adapted for the landing and taking off of aircraft, but which is not equipped with facilities for shelter, supply, and repair of aircraft;

(11) "Navigable air space" means the air space above the minimum safe altitudes of flight prescribed by the division;

(12) "Nonresident" shall apply to any person who has no regular place of abode or business within this state for a period longer than thirty (30) days or parts thereof, not necessarily consecutive, in the calendar year;

(13) "Owner" means any person, firm, partnership, or corporation holding title to any aircraft or having legal right to register it;

(14) "Passenger" means any person riding in an aircraft but having no part in its operation;

(15) "Person" means any individual, association, copartnership, firm, company, corporation, or other association of individuals;

(16) "Pilot" means an individual who operates an aircraft in flight or while under way; and

(17) "Director" means Director of the Division of Aeronautics.

History. Acts 1941, No. 457, § 1; A.S.A. 1947, § 74-101.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Lindsey P. Gustafson, Arkansas Airspace Ownership and the Challenge of Drones, 39 U. Ark. Little Rock L. Rev. 245 (2017).

27-114-103. Evidence — License number or identification mark.

In any proceeding for violating the provisions of this act or the rules of the Division of Aeronautics adopted pursuant to this act, the federal license number or identification mark displayed on the aircraft shall be prima facie evidence that the owner of the aircraft was operating the aircraft.

History. Acts 1941, No. 457, § 19; A.S.A. 1947, § 74-119; Acts 2019, No. 315, § 3191.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in the text.

CHAPTER 115

DIVISION OF AERONAUTICS

SECTION.
27-115-101. Creation.
27-115-102. Purpose.
27-115-103. Members.
27-115-104. Director.
27-115-105. Director.
27-115-106. Administration — Promulgation of rules.
27-115-107. Powers generally.
27-115-108. Duties generally.
27-115-109. Location and construction of landing fields.
27-115-110. Disposition of funds.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

27-115-101. Creation.

There is created a commission to be known as the "Division of Aeronautics", which shall maintain an office in the City of Little Rock.

History. Acts 1941, No. 457, § 2; 1961, No. 155, § 1; 1965, No. 456, § 1; A.S.A. 1947, § 74-102; Acts 2019, No. 910, § 634.

Amendments. The 2019 amendment substituted "'Division of Aeronautics'" for "'Arkansas Department of Aeronautics'".

27-115-102. Purpose.

The Division of Aeronautics is established and authorized to represent the State of Arkansas in the promotion and development of landing fields, airports, hangars, and other aeronautical projects and to cooperate with and secure the cooperation of the Federal Aviation Administration and any other duly authorized federal agencies interested in the development of aeronautics.

History. Acts 1941, No. 457, § 23; A.S.A. 1947, § 74-123; Acts 2019, No. 910, § 635.

Amendments. The 2019 amendment substituted "Division of Aeronautics" for "Arkansas Department of Aeronautics".

27-115-103. Members.

(a) The Division of Aeronautics shall be composed of seven (7) members appointed by the Governor.

(b) One (1) of the members shall be appointed from each of the four (4) congressional districts, and three (3) members shall be appointed from the state at large.

(c) Appointments shall be for terms of five (5) years.

History. Acts 1941, No. 457, § 2; 1961, No. 155, § 1; 1965, No. 456, § 1; 1973, No. 64, § 1; 1985, No. 257, § 1; A.S.A. 1947, §§ 74-102, 74-102.1; Acts 2019, No. 910, § 636.

Amendments. The 2019 amendment substituted "Division of Aeronautics" for "Arkansas Department of Aeronautics" in (a).

27-115-104. Director.

Any person employed as Director of the Division of Aeronautics shall possess the qualifications of a multi-engine commercial pilot. No other flight or pilot qualification shall be required for such director.

History. Acts 1969, No. 519, § 4; 2019, No. 910, § 637.

Amendments. The 2019 amendment substituted "Director of the Division of Aeronautics" for "Director of the Arkansas Department of Aeronautics".

27-115-105. Director.

(a) The Director of the Division of Aeronautics shall be appointed by the Secretary of the Department of Commerce with the approval of the Governor and shall serve at the pleasure of the Governor.

(b) The director shall report to the secretary.

History. Acts 1983, No. 691, § 13; A.S.A. 1947, § 74-102a; Acts 2019, No. 910, § 638.

Amendments. The 2019 amendment substituted "Director" for "Secretary Director" in the section heading; added the (a) designation, in (a), substituted "Director of the Division of Aeronautics" for "Secretary of the Arkansas Department of Aeronautics, or the administrative head of the department" and "Secretary of the Department of Commerce with" for "department with"; and added (b).

27-115-106. Administration — Promulgation of rules.

The Division of Aeronautics shall administer the provisions of this chapter and § 27-116-101 et seq. and is authorized and directed to promulgate rules, in consultation with the Secretary of the Department of Commerce, as necessary to execute the powers invested in the division by this chapter and § 27-116-101 et seq. and other applicable laws.

History. Acts 1941, No. 457, § 3; A.S.A. 1947, § 74-103; Acts 2019, No. 315, § 3192; 2019, No. 910, § 639.

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in the section heading; and substituted "rules" for "regulations" in the text.

The 2019 amendment by No. 910 substituted "Division of Aeronautics" for "Arkansas Department of Aeronautics", inserted "in consultation with the Secretary of the Department of Commerce", and substituted "the division" for "it".

27-115-107. Powers generally.

(a) The Division of Aeronautics shall have the right to:

(1) Receive grants and donations, appropriations, and other funds or materials on behalf of the state, county, municipality, or other eligible applicants for utilization in the development of aeronautics, provided that the division shall not have the right to use the funds received for a particular purpose for any other purpose without the consent of the person or agency providing the particular funds; and

(2) Plan and lay out a state system of landing fields, airports, and airways and to inspect them and to close any landing field or airport found to be unsafe.

(b) The division is authorized:

(1) To accept as a loan or a gift any aircraft made available for its use by the federal government or any agency thereof; or

(2) To match any funds made available by the federal government, any agency thereof, or any person or corporation with any moneys available to the division for the purpose of acquiring any aircraft which it may deem necessary to the proper performance of its duties as provided by law.

History. Acts 1941, No. 457, §§ 21, 23; 1961, No. 155, § 2; 1985, No. 257, § 3; A.S.A. 1947, §§ 74-121, 74-123; Acts 2019, No. 910, § 640.

Amendments. The 2019 amendment substituted "Division of Aeronautics" for "Arkansas Department of Aeronautics" in (a); in (a)(1), substituted "county, municipality, or other eligible applicants" for "or any county, or municipality" and "divi-

sion" for "department"; and substituted "division" for "department" in the introductory language of (b) and in (b)(2).

27-115-108. Duties generally.

(a) It shall be the duty of the Division of Aeronautics to:

(1) Provide for the examination, rating, and licensing of airports, landing fields, and air navigation facilities available for the use of aircraft;

(2) Adopt, in consultation with the Secretary of the Department of Commerce, rules for the issuance, expiration, suspension, or revocation of licenses of airports, landing fields, and air navigation facilities, and of other licenses or certificates that the division deems necessary in administering the functions vested in the division under this chapter and § 27-116-101 et seq.;

(3) Establish, set apart, and provide for the protection of necessary air space reservations within the state in addition to and not in conflict with air space reservations established by the President of the United States or any department of the United States or with any civil or military airway designated under the provisions of the Air Commerce Act of 1926 and the amendments thereto, or other act of the United States Congress pertaining thereto;

(4) Designate, establish, and chart civil airways within, over, and above the lands or waters of the state and arrange for publication of maps of such airways, utilizing the facilities and assistance of existing agencies of the state as far as practicable. The division shall grant no exclusive right for the use of any civil airway, airport, intermediate landing field, or other air navigation facility under its jurisdiction;

(5) Investigate, record, and report the causes of accidents in civil air navigation within this state;

(6) Encourage the establishment of airports, civil airways, and other air navigation facilities;

(7) Supervise and regulate the safety, adequacy, and sufficiency of all airports, landing fields, and air navigation facilities and equipment used or to be used in private or commercial flying;

(8) Adopt, in consultation with the secretary, rules governing instruction in flight or ground school offered to student fliers or mechanics when the instruction is conducted by individual flight instructors licensed under appropriate Federal Aviation Administration regulations and adopt rules governing the safety, adequacy, and sufficiency of airports, landing fields, and air navigation facilities and equipment used or to be used in the instruction of student fliers or mechanics;

(9) Adopt, in consultation with the secretary, rules for the marking of highways, municipalities, and all other serial markings used throughout the state;

(10) Adopt, in consultation with the secretary, rules governing the erection, location, and maintenance of aerial beacon lights and other aerial night lighting equipment within the state;

(11) Exchange with the Federal Aviation Administration and other state governments through existing governmental channels information pertaining to civil air navigation;

(12) Enforce the regulations and air traffic rules, promulgated as provided hereunder, through the assistance and cooperation of state and local authorities charged with the enforcement of law in their respective jurisdictions;

(13) Establish by rule, in consultation with the secretary, the minimum safe altitudes for flight, including air traffic rules; and

(14) Establish, in consultation with the secretary, posting requirements for compliance with § 12-19-102, concerning the posting of information about the National Human Trafficking Hotline.

(b) All rules prescribed by the division under the authority of this section shall be consistent with and conform to current federal legislation governing aeronautics and the regulations duly promulgated thereunder and rules issued from time to time pursuant thereto. Nothing in this section shall confer upon the division the power to determine schedules, issue stock, or determine public convenience or the adequacy and sufficiency of service of common carriers engaged in commercial flying within this state.

History. Acts 1941, No. 457, § 3; 1975, No. 740, § 1; A.S.A. 1947, § 74-103; Acts 2013, No. 1157, § 10; 2019, No. 315, §§ 3193-3198; 2019, No. 910, § 641.

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (a)(2), (a)(8) through (a)(10), and (b); and substituted "rule" for "regulation" in (a)(13).

The 2019 amendment by No. 910 substituted "division" for "department" throughout the section; inserted "in consultation with the Secretary of the Department of Commerce" throughout (a); and substituted "Division of Aeronautics" for "Arkansas Department of Aeronautics" in the introductory language of (a).

27-115-109. Location and construction of landing fields.

(a) The Division of Aeronautics shall assist in the location of landing fields and the promotion and development of aeronautics throughout the state.

(b) The division may use for the construction and development of these fields and for the grading and construction of highways leading thereto, any equipment of the Arkansas Department of Transportation which is not at that time required for other construction purposes.

History. Acts 1941, No. 457, § 22; A.S.A. 1947, § 74-122; Acts 2017, No. 707, § 434; 2017, No. 786, § 2; 2019, No. 910, § 642.

Amendments. The 2017 amendment by No. 707 substituted "Department of Transportation" for "State Highway and Transportation Department" in (b).

The 2017 amendment by No. 786 deleted "Working of prisoners" from the end of the section heading; substituted "may" for "shall have the authority to" in (b); and deleted (c) and (d).

The 2019 amendment substituted "Division of Aeronautics" for "Arkansas Department of Aeronautics" in (a); and substituted "division" for "Arkansas Department of Aeronautics" in (b).

27-115-110. Disposition of funds.

(a) All revenues derived from the levying of the Arkansas Gross Receipts Tax, as amended, § 26-52-101 et seq., upon aircraft and aviation fuel, aviation services, aircraft parts and accessories, and other gross receipts taxes remitted by aircraft dealers, airports, and flying fields shall be reported to the Secretary of the Department of Finance and Administration in a manner and on forms as he or she shall direct.

(b) The Division of Aeronautics is authorized to accept donations and grants of all property, whether real or personal.

(c) Tax proceeds and grants and donations of money shall be special revenues and shall be deposited in the State Treasury to the credit of the Division of Aeronautics Fund to be used for constructing and improving airports, civil airways, and other air navigation facilities and for preserving the history of aviation in the state.

(d) The division shall administer the funds so deposited and shall use the funds for the sole purpose of building airports, civil airways, and other air navigation facilities in this state in those cities or towns as the division, in coordination with the Arkansas Economic Development Council, shall determine would attract the greatest volume of industry to this state.

(e) The funds may also be used for the purpose of:

(1) Matching funds with any federal funds made available for the purpose of this section; or

(2)(A) Establishing or supporting aviation museums to preserve the history of aviation in the state.

(B) Assistance for the establishment or support of aviation museums shall not exceed a total of twenty thousand dollars ($20,000); or

(3) Distributing grants to qualifying applicants as determined by the Director of the Division of Aeronautics and the Aeronautics Commission for any purpose related to:

(A) The development of aeronautics;

(B) The promotion of aeronautics; or

(C) Aviation education.

(f)(1) All revenues derived from the levying of the compensating use tax under the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., upon aircraft and aviation fuel, aviation services, and aircraft parts and accessories remitted by aircraft dealers, airports, and flying fields shall be reported to the Director of the Division of Aeronautics in a manner and on forms as he or she shall direct.

(2) All state use tax derived shall be special revenues and shall be deposited in the State Treasury to the credit of the fund to be used for the purposes set forth in this subsection.

History. Acts 1967, No. 449, §§ 1, 2; 1977, No. 733, § 1; 1983, No. 474, §§ 1, 2; A.S.A. 1947, §§ 74-214, 74-215; Acts 1997, No. 540, §§ 62, 93; 1997, No. 924, § 1; 2019, No. 152, § 2; 2019, No. 910, § 643.

Amendments. The 2019 amendment by No. 152 redesignated former (e)(2) as (e)(2)(A) and (e)(2)(B); in (e)(2)(A), substituted "or supporting aviation museums" for "an aviation museum"; in (e)(2)(B),

substituted "or support of aviation museums" for "of an aviation museum"; and added (e)(3).

The 2019 amendment by No. 910 substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (a); substituted "Division of Aeronautics" for "Arkansas Department of Aeronautics" in (b) and (c); substituted "division" for "Arkansas Department of Aeronautics" twice in (d); redesignated the former first sentence of (e)(2) as (e)(2)(A) and the former second sentence as (e)(2)(B); in (f), substituted "Director of the Division of Aeronautics" for "Director of the Arkansas Department of Aeronautics", deleted former (f)(2) through (f)(5), redesignated (f)(6) as present (f)(2), and deleted "Beginning July 1, 2001" at the beginning of (f)(2).

CHAPTER 116

REGULATION OF AIRCRAFT

SUBCHAPTER.

1. General Provisions.
2. Registration and Licensing.
4. Downed Aircraft Devices.

Subchapter 1 — General Provisions

SECTION.

27-116-101. Unlawful acts.

27-116-101. Unlawful acts.

It shall be unlawful for any person to:

(1) Operate or navigate aircraft while under the influence of intoxicating liquor or narcotic drug or habit-producing drug, or permit any person who may be under the influence of intoxicating liquor or narcotic or habit-producing drug to operate or navigate any aircraft owned by him or her or in his or her custody or control;

(2) Operate or navigate aircraft while in possession of any federal license or to display or cause or permit to be displayed the license, knowing it to have been cancelled, revoked, suspended, or altered;

(3) Lend to or knowingly permit the use of by one not entitled to a license any federal airman's and aircraft license issued to the person lending or permitting the use thereof;

(4) Display or represent as one's own any federal airman's or aircraft license not issued to the person displaying it;

(5) Tamper with, make use of or navigate any aircraft without the knowledge or consent of the owner or custodian thereof; or

(6) Use a false or fictitious name or give a false or fictitious address in any application or form required under the provisions of § 27-115-101 et seq. and this chapter, or the rules of the Division of Aeronautics adopted pursuant to § 27-115-101 et seq. and this chapter, knowingly make any false statement or report, knowingly conceal a material fact, or otherwise commit a fraud in any application.

History. Acts 1941, No. 457, § 16; A.S.A. 1947, § 74-116; Acts 2019, No. 315, § 3199.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (6).

27-116-102. Ownership and use of airspace — Emergency landings.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Lindsey P. Gustafson, Arkansas Airspace Ownership and the Challenge of Drones, 39 U. Ark. Little Rock L. Rev. 245 (2017).

Subchapter 2 — Registration and Licensing

SECTION.
27-116-205. Display of licenses.

27-116-205. Display of licenses.

The certificate of the license required for the person operating aircraft and the certificate of the license required for aircraft and other licenses or certificates that may be issued by the Division of Aeronautics shall be kept in such places and exhibited to such persons at such time and under such rules and circumstances as shall be required by the rules of the division.

History. Acts 1941, No. 457, § 6; A.S.A. 1947, § 74-106; Acts 2019, No. 315, § 3200.

Amendments. The 2019 amendment substituted "rules" for "regulations" twice in the text.

Subchapter 3 — Laws Governing Operations

27-116-303. Liability for injury to persons or property.

RESEARCH REFERENCES

ALR. Liability Arising from Air Shows or Other Aerial Exhibitions for Injury and Death of Spectators and Participants. 88 A.L.R.6th 679.

Subchapter 4 — Downed Aircraft Devices

SECTION.
27-116-401. Administration.
27-116-405. Presale requirements.

27-116-401. Administration.

The provisions of this subchapter shall be administered by the Division of Aeronautics.

History. Acts 1971, No. 52, § 2; A.S.A. 1947, § 74-126; Acts 2011, No. 780, § 13.

27-116-405. Presale requirements.

(a) No person shall sell or offer for sale any downed aircraft transmitting device which does not satisfy all of the following requirements:

(1) The device shall meet the minimum standards for transmitting devices established pursuant to this subchapter and the rules promulgated by the Division of Aeronautics hereunder;

(2) The device shall be approved by the division as provided by this subchapter; and

(3) The device shall have legibly inscribed thereon or permanently affixed thereto by the manufacturer the following statement: "This downed aircraft transmitter has been approved by, and meets the minimum standards for such devices established by, the State of Arkansas."

(b) No downed aircraft transmitting device which fails to exhibit the inscription required in subdivision (a)(3) of this section shall meet the requirements of this subchapter.

History. Acts 1971, No. 52, § 7; A.S.A. 1947, § 74-131; Acts 2019, No. 315, § 3201.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (a)(1).